



## COUNCIL CHAMBERS

17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

<b>COUNCIL MEMBERS</b>	<b>REDEVELOPMENT AGENCY</b>
Dennis Kennedy, Mayor	Dennis Kennedy, Chair
Steve Tate, Mayor Pro Tempore	Steve Tate, Vice-Chair
Larry Carr, Council Member	Larry Carr, Agency Member
Mark Grzan, Council Member	Mark Grzan, Agency Member
Greg Sellers, Council Member	Greg Sellers, Agency Member

**WEDNESDAY, JUNE 1, 2005**

**AGENDA**

**JOINT MEETING**

**CITY COUNCIL REGULAR MEETING**

**and**

**REDEVELOPMENT AGENCY SPECIAL MEETING**

**7:00 P.M.**

***A Special Meeting of the Redevelopment Agency is Called at 7:00 P.M. for the Purpose of Conducting City Business and Closed Sessions.***

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**Dennis Kennedy, Mayor/Chairman**

**CALL TO ORDER**

(Mayor/Chairperson Kennedy)

**ROLL CALL ATTENDANCE**

(City Clerk/Agency Secretary Torrez)

**DECLARATION OF POSTING OF AGENDA**

**Per Government Code 54954.2**

(City Clerk/Agency Secretary Torrez)

**7:00 P.M.**

**SILENT INVOCATION**

**PLEDGE OF ALLEGIANCE**

**RECOGNITIONS**

Retiring Parks & Recreation Commissioner  
*Don Jensen*

Recognition of Citizens for Bravery  
*Juan R. Murillo, Arturo Pinacho, and Erica Cabrera*

**CITY COUNCIL REPORT**

Council Member Grzan

**CITY COUNCIL SUB-COMMITTEE REPORTS**

**CITY MANAGER'S REPORT**

**CITY ATTORNEY'S REPORT**

**OTHER REPORTS**

**PUBLIC COMMENT**

**NOW IS THE TIME FOR COMMENTS FROM THE PUBLIC REGARDING ITEMS NOT ON THIS AGENDA.**

(See notice attached to the end of this agenda.)

**PUBLIC COMMENTS ON ITEMS APPEARING ON THIS AGENDA WILL BE TAKEN AT THE TIME  
THE ITEM IS ADDRESSED BY THE COUNCIL. PLEASE COMPLETE A SPEAKER CARD AND  
PRESENT IT TO THE CITY CLERK.**

(See notice attached to the end of this agenda.)

**PLEASE SUBMIT WRITTEN CORRESPONDENCE TO THE CITY CLERK/AGENCY SECRETARY. THE  
CITY CLERK/AGENCY SECRETARY WILL FORWARD CORRESPONDENCE TO THE CITY  
COUNCIL/REDEVELOPMENT AGENCY.**

## City Council Action

### CONSENT CALENDAR:

#### ITEMS 1-5

The Consent Calendar may be acted upon with one motion, a second and the vote, by each respective Agency. The Consent Calendar items are of a routine or generally uncontested nature and may be acted upon with one motion. Pursuant to Section 5.1 of the City Council Rules of Conduct, any member of the Council or public may request to have an item pulled from the Consent Calendar to be acted upon individually.

	<b>Time Estimate</b>	<b>Page</b>
	<b>Consent Calendar: 1 - 10 Minutes</b>	
1.	<a href="#"><u>PERFORMANCE MEASURE UPDATE - THIRD QUARTER FY 2004-2005</u></a> ..... <b>Recommended Action(s):</b> <u>Receive</u> and <u>File</u> .	7
2.	<a href="#"><u>APPROVE FINAL MAP FOR SAN PEDRO VILLAS PHASE III (TRACT 9695)</u></a> ..... <b>Recommended Action(s):</b> 1. <u>Approve</u> the Final Map; and 2. <u>Authorize</u> the Recordation of the Map following Recordation of the Development Improvement Agreement.	19
3.	<a href="#"><u>ENVIRONMENTAL ASSESSMENT, EA-05-05: EDMUNDSON-INDOOR RECREATION CENTER (IRC) BIKE PATH</u></a> ..... <b>Recommended Action(s):</b> <u>Approve</u> Addendum to the Adopted Mitigated Negative Declaration for the Morgan Hill Community Indoor Recreation Center.	20
4.	<a href="#"><u>ADOPT ORDINANCE NO. 1724, NEW SERIES</u></a> ..... <b>Recommended Action(s):</b> <u>Waive</u> the Reading, and <u>Adopt</u> Ordinance No. 1724, New Series, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: <b>AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A PRECISE DEVELOPMENT PLAN FOR PHASES 7, 8, 9 &amp; 10 (81 UNITS) OF THE CAPRIANO/MADRONE CROSSING DEVELOPMENT. THE RESIDENTIAL DEVELOPMENT PLAN COVERS A 68 ACRE SITE LOCATED ON THE WEST SIDE OF MONTEREY ROAD, SOUTH SIDE OF TILTON AVENUE, ON THE EAST SIDE OF HALE AVE. (APN's 764-09-005, 006, 007, 008, 009, 010 &amp; 014) .</b>	22
5.	<a href="#"><u>ADOPT ORDINANCE NO. 1725, NEW SERIES</u></a> ..... <b>Recommended Action(s):</b> <u>Waive</u> the Reading, and <u>Adopt</u> Ordinance No. 1725, New Series, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: <b>AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT, DA 04-08: TILTON-GLENROCK FOR APPLICATION MP-02-03: TILTON-GLENROCK (APNS 764-9-06, 16, 17, 32 &amp; 33) .</b>	26

## City Council and Redevelopment Agency Action

### CONSENT CALENDAR: ITEMS 6-8

	Time Estimate		Page
	Consent Calendar: 1 - 10 Minutes		
6.		<a href="#"><u>AGREEMENT WITH MORGAN HILL COMMUNITY FOUNDATION FOR HIRAM MORGAN HILL STATUE</u></a> .....	29
		<b>Recommended Action(s):</b> <b>Adopt</b> Redevelopment Agency and City Council Resolutions Authorizing the Executive Director to Execute an Agreement to Advance \$52,000 to the Morgan Hill Community Foundation Regarding the "Waiting for the Train" Statue.	
7.		<a href="#"><u>APPROVE JOINT SPECIAL CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF MAY 20, 2005</u></a> .....	43
8.		<a href="#"><u>APPROVE JOINT SPECIAL AND REGULAR REDEVELOPMENT AGENCY AND SPECIAL CITY COUNCIL MEETING MINUTES OF MAY 25, 2005</u></a> .....	58

## City Council Action

### PUBLIC HEARINGS:

	Time Estimate		Page
9.	5 Minutes	<a href="#"><u>DEVELOPMENT AGREEMENT APPLICATION, DA-05-01: COCHRANE-MISSION RANCH</u></a> .....	76
		Public Hearing Opened. Please Limit Your Remarks to 3 Minutes. Public Hearing Closed Council Discussion. Action- <b>Motion to Waive</b> the Reading in Full of Development Agreement Ordinance. Action- <b>Motion to Introduce</b> Development Agreement Ordinance by Title Only. (Roll Call Vote)	
10.	10 Minutes	<a href="#"><u>CONDUCT PUBLIC HEARING AND ADOPT RESOLUTION TO ESTABLISH MONTEREY UNDERGROUND UTILITIES DISTRICT NO. 3 – DUNNE AVENUE TO COSMO AVENUE</u></a> .....	79
		Public Hearing Opened. Please Limit Your Remarks to 3 Minutes. Public Hearing Closed Council Discussion. Action- <b>Adopt</b> Resolution Establishing Monterey Underground Utilities District No. 3 - Dunne Avenue to Cosmo Avenue; and Action- <b>Direct</b> City Clerk to Notify all Affected Utilities and All Persons Owning Real Property Within ten (10) Days after the Adoption of the Resolution.	
11.	5 Minutes	<a href="#"><u>2005 HAZARDOUS BRUSH PROGRAM COMMENCEMENT REPORT AND PUBLIC HEARING</u></a> .....	84
		Public Hearing Opened. Please Limit Your Remarks to 3 Minutes. Public Hearing Closed Council Discussion.	

## ***City Council and Redevelopment Agency Action***

### **OTHER BUSINESS:**

	<b>Time Estimate</b>		<b>Page</b>
12.	15 Minutes	<b><u>PROPERTY BASED IMPROVEMENT DISTRICT (PBID)</u></b> .....	86
		<b><u>Recommended Action(s):</u></b>	
		1. <b><u>Consider</u></b> a Petition from the Morgan Hill Downtown Association (MHDA) to Initiate a Special Assessment Proceeding to Form a PBID in Downtown; and if there are Adequate Signatures, <b><u>Adopt</u></b> the Resolution of Intent to Initiate Special Assessment Proceedings; and	
		2. If the Petition Lacks Adequate Signatures, <b><u>Consider</u></b> the Following Options:	
		a) <b><u>Request</u></b> the MHDA to Collect More Signatures for the Petition and Return to the City Council for Consideration when a Base Threshold has been met; or	
		b) <b><u>Direct</u></b> the City Manager/Executive Director to Sign the Petition in Favor of the Assessment, and <b><u>Adopt</u></b> the Resolution of Intent to Initiate the Special Assessment Proceedings Should the 50% Threshold be met.	

## ***City Council Action***

### **OTHER BUSINESS:**

	<b>Time Estimate</b>		<b>Page</b>
13.	10 Minutes	<b><u>ADDITIONAL TIME EXTENSION REQUEST FOR SUBDIVISION IMPROVEMENT AGREEMENT FOR ALCINI PARTNERSHIP/MAST AVENUE</u></b> .....	95
		<b><u>Recommended Action(s):</u></b>	
		1. <b><u>Require</u></b> the Public Improvements to be completed by September 1, 2005 as required by the Most Recent Extension of the Subdivision Improvement Agreement; and	
		2. <b><u>Grant</u></b> the Developer's Request to Extend the Time, with the Condition that the Extension Granted by Council on September 1, 2004 must be Fully Executed and Complied with no later than July 1, 2005.	
14.	10 Minutes	<b><u>JOINT CITY COUNCIL AND PLANNING COMMISSION WORKSHOP</u></b> .....	96
		<b><u>Recommended Action(s):</u></b> <b><u>Direct</u></b> Staff to Schedule a Joint Workshop with the Planning Commission on June 6, 2005.	

### **FUTURE COUNCIL-INITIATED AGENDA ITEMS:**

Note: in accordance with Government Code Section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

## ***City Council Action and Redevelopment Agency Action***

### **CLOSED SESSION:**

#### **1.**

#### **CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

Authority:	Government Code Sections 54956.9(b) & (c)
Number of Potential Cases:	2

### **OPPORTUNITY FOR PUBLIC COMMENT**

### **ADJOURN TO CLOSED SESSION**

### **RECONVENE**

### **CLOSED SESSION ANNOUNCEMENT**

### **ADJOURNMENT**



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: JUNE 1, 2005***

**TITLE: PERFORMANCE MEASURE UPDATE – THIRD  
QUARTER FY 2004/05**

**RECOMMENDED ACTION:**  
**Receive and file**

### **EXECUTIVE SUMMARY:**

With the inclusion of performance measures into the document, the City's adopted FY 2004/05 Operating and Capital Budget received the prestigious Government Finance Officers Association (GFOA) Distinguished Budget Presentation Award.

The City started implementing performance measures in the FY 2002/03 Operating and Capital Budget, and on a quarterly basis, staff has been presenting Performance Measure Updates to the City Council. Attachment A is the update for the third quarter of FY 2004/05.

### **FISCAL IMPACT:**

None.

**Agenda Item # 1**

**Prepared By:**

A handwritten signature in black ink, likely belonging to the Budget Manager.

**Budget Manager**

**Approved By:**

**Finance Director**

**Submitted By:**

**City Manager**

3/31/05 Update Performance Measure	Actual Result for 2002-03	Actual Result for 2003-04	Status of measure 7/1/04 thru 3/31/05	Explanatory Comments (as needed)
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[010-1100] CITY COUNCIL				Responsibility: City Clerk's Office
Council/Redevelopment Agency Meeting Minutes produced	86	69	45	
Time required to draft, proof and edit minutes for every 4 hours of meeting time	1.5 hours	1.5 (average)	1.75 (average)	
Total time to produce minutes	425 hours	274 hours	188.5	
Percentage of Minutes completed without errors of fact	98%	100%	100%	
Percent of Minutes completed within 2 weeks	100%	99%	100%	

[010-1220] COMMUNITY PROMOTIONS				Responsibility: City Clerk's Office
Proclamations Produced	190	110	120	
Staff time to coordinate/draft requests for proclamations for Council members, staff and outside requests	1.5 hours	1.5 hours	1.5	
Hours to produce all proclamations	285 hours	165 hours	180	
Percentage of Proclamations completed for a particular meeting date, as requested	100%	100%	100%	

[010-2410] COUNCIL SERVICES & RECORDS MANAGEMENT				Responsibility: City Clerk's Office
Number of requests for public records	895	754	682	
Completed within: 1 day	86.7%	85.5%	86.2%	
10 days	11.8%	13.6%	12.8%	
10+ days	1.5%	0.9%	1.0%	

[010-2420] ELECTIONS DIVISION				Responsibility: City Clerk's Office
Number of Statement of Economic Interests filed	3	115	113	
Percentage filed by deadline	100%	92.2%	95.6%	
Percentage filed late	0%	7.8%	4.4%	

[010-1500] CITY ATTORNEY				Responsibility: City Attorney's Office
Standard contracts reviewed within ten days	100%	N/A	N/A	
Amended Municipal Chapter Codes adopted by the City	4	N/A	N/A	
Hours of MCLE	26	N/A	N/A	
Closure of more than 50% of defense cases under \$75,000 in legal fees	100%	N/A	N/A	



3/31/05 Update Performance Measure	Actual Result for 2002-03	Actual Result for 2003-04	Status of measure 7/1/04 thru 3/31/05	Explanatory Comments (as needed)
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[010-2100] CITY MANAGER				Responsibility: City Manager's Office
Percentage of workplan projects, City-wide, that are completed within the planned time frame, recognizing that the schedule of some projects is beyond departmental control	35%	40%	35%	
Actual General Fund expenditures as a percentage of the current General Fund budget	93%	97%	84%	
City General Fund reserves as a proportion of current General Fund revenue projections	64%	66%	50%	

[010-5145] COMMUNICATIONS AND MARKETING				Responsibility: City Manager's Office
Pages of City Visions produced	72	80	104	
Dollars (not inclusive of staffing) spent on producing City Visions.	\$57,364	\$63,684	\$28,565	
Dollars per page of City Visions produced and distributed.	\$797	\$796	\$275	

[010-2110] RECREATION DIVISION				Responsibility: Recreation and Community Services Division
Overall cost of staff time to develop Recreation Guide, recruit instructors, negotiate contracts	\$37,921	\$15,100	\$8,192	
Overall cost produce and advertise recreation classes	\$9,064	\$2,517	\$3,212	
Cost per participant to produce Recreation Guide	\$4.17	\$1.60	\$19	
Number of participants citywide	2,171	1,567	2,679	
Percentage of classes rated by customers as "Good" to "Excellent" on a scale of 1 to 5	N/A	N/A	81%	
Percentage of classes that meet enrollment and are held vs. total classes offered	N/A	N/A	61%	
Percentage of classes implemented which meet cost recovery goal of instructor fee and room rental	N/A	N/A	1) 60% 2) 42% 3) 30%	1) % of classes that met instructor cost recovery 2)% of classes that met cost recovery for partial room rental 3) % of classes that did not meet cost recovery
Percent cost recovery for Recreation Division	5.2%	13%	67%	

<b>3/31/05 Update</b>	<b>Actual Result for 2002-03</b>	<b>Actual Result for 2003-04</b>	<b>Status of measure 7/1/04 thru 3/31/05</b>	<b>Explanatory Comments (as needed)</b>
<b>Performance Measure</b>				

<b>[010-2115] COMMUNITY AND CULTURAL CENTER</b>	<b>Responsibility: Recreation and Community Services Division</b>
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Facility rentals	117	541	367	
Playhouse rentals	N/A		33	

<b>[010-2120] AQUATICS CENTER</b>	<b>Responsibility: Recreation and Community Services Division</b>
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Number of participants	N/A	N/A	10,691/252	Gate Count/Swim Lesson
Cost recovery of concession	N/A	N/A	127%	Concession only open during 1 <sup>st</sup> quarter of Fiscal Year

<b>[010-2210] VOLUNTEER SERVICES PROGRAM</b>	<b>Responsibility: Recreation and Community Services Division</b>
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Number of external requests for municipal volunteer opportunities to number of actual placements	50 to 18	92 to 45	30 to 14	
Number of internal requests for volunteers to number of actual placements.	12 to 11	17 to 13	42 to 19	

<b>[010-2200] HUMAN RESOURCES OFFICE</b>	<b>Responsibility: Human Resources Department</b>
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Cost of providing 24 hours of enhanced training (beyond legal requirements) to each employee per year (est. \$250 per employee)	\$37,307	\$38,830	\$27,788.61	
Number of recruitment processes which include selection criteria such as: flexibility, change management, attitude to work, fit for the organization, etc., in addition to the task requirements of the position	4 of 4	14 of 14	Performance measure eliminated	
Number of employees recognized for exemplary customer service, new ways of accomplishing work, successful cost reducing ideas, years of service	125	80	Performance measure eliminated	
Number of HR staff hours spent in training, communicating and consulting to the number of HR staff hours spent recruiting to fill vacant positions.	3.5 to 4	4.5 to 4	6 to 2	
Average cost to recruit and hire a new employee	\$2,500	\$2,000	Performance measure eliminated	
Percent of increase in customer satisfaction based on employee opinion survey follow-up	N/A	0%	0%	
Training hours provided to employees	N/A	0%	400	

3/31/05 Update Performance Measure	Actual Result for 2002-03	Actual Result for 2003-04	Status of measure 7/1/04 thru 3/31/05	Explanatory Comments (as needed)
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[770-8220] WORKERS COMPENSATION INSURANCE			Responsibility: Human Resources Department	
Number of workers' compensation claims involving temporary disability benefits	9	14	8	
Number of lost work days caused by temporary disability	739	840	206	A total of nine claims involved time loss in this time period
Average number of days to bring an injured employee off temporary disability	74	60	23	

[010-2510] FINANCE			Responsibility: Finance Department	
Staff hours designated for Accounts Payable	2,000 hours	1,660	1,050	
Invoices processed	13,871	13,826	10,200	
% of invoices paid by due date	86%	88%	85%	
Average time to process an invoice	8.66 minutes	7.20 minutes	6.2 minutes	

[650-5750] UTILITY BILLING - SEWER & WATER			Responsibility: Finance Department	
Staff hours designated to Utility Billing	4,168	3,800	3,298	
Bills processed per year	134,270	137,206	103,705	
Percent sent out error free	96.9%	99.9%	99.9%	
Average time to process a bill	1.87 minutes	1.66 minutes	1.27 minutes	

[240-2610] EMPLOYEE ASSISTANCE PROGRAMS			Responsibility: Finance Department	
New computer loans granted	N/A	47	19	

[795-8210] GENERAL LIABILITY INSURANCE			Responsibility: Finance Department	
Percent of claims responded to within the statutory time frame of 45 days, either through a rejection of the claim or through a proposed resolution.	78%	100%	96%	

[010-3205] POLICE ADMINISTRATION			Responsibility: Police Department	
Number of citizens' complaints regarding police services to the number of hours spent processing complaints.	100.85 hours (31 complaints)	70 Hours (10 Complaints)	116 Hours (7 Complaints)	
Percent of formal citizens' complaints resolved within 45 days of receipt.	50%	75%	85%	

<b>3/31/05 Update</b>	<b>Actual Result for 2002-03</b>	<b>Actual Result for 2003-04</b>	<b>Status of measure 7/1/04 thru 3/31/05</b>	<b>Explanatory Comments (as needed)</b>
<b>Performance Measure</b>				
Percentage of sworn personnel who receive 24 hours of Continued Proficiency Training	42%	73%	73%	
Deficiencies reported in the annual POST audit	0	No audit this year	No audit this quarter	

<b>[010-3210] POLICE FIELD OPERATIONS</b>				<b>Responsibility: Police Department</b>
Number of self initiated contacts compared to the number of calls for service.	SI – 15,363 CFS – 25,668	SI – 14,009 CFS – 20,114	SI – 8,757 CFS – 19,892	
Percent of clearance in Part I and Part II crime rates in Morgan Hill compared to the national rate	MH 13% National 21%	MH 7% National 21%	PT I Violent 60%/49% PT I Property 17%/18.7%	
Percent of Priority I calls responded to within 5 minutes of receipt	100%	100%	100%	
CFS prior to and after implementation of POP project	N/A	25 Prior/53 After	45 Prior/33 After	

<b>[010-3225] POLICE SUPPORT SERVICES</b>				<b>Responsibility: Police Department</b>
Number of hours per week dedicated to the property/evidence function	35 hours/week	40 hours/week	40	
Percent of property/evidence released or purged within 30 days of clearance	100%	100%	100%	
Percent of arrests entered into CJIC within 48 business hours of arrest date	100%	100%	100%	
Number of incident reports stored electronically	5,184	4,589	5,220	

<b>[010-3230] EMERGENCY SERVICES UNIT</b>				<b>Responsibility: Police Department</b>
Hours of preparedness presentations given to the community	176 hours	51 hours	34	
Number of organized CERT teams capable of operating within the City	6 teams of 15-25 members	6 teams of 15-25 members	1 team of 15 members	
Number of emergency drills/exercises	3	1	2	
Number of sections of the disaster plan updated annually	2 new additions	New plan pending	Part III of III complete	

<b>[010-3245] POLICE SPECIAL OPERATIONS</b>				<b>Responsibility: Police Department</b>
Number of investigations assigned to Special Operations	190	228	141	
Number of incidents investigated by division personnel submitted to the D.A.'s Office requesting the issuance of a criminal complaint	75	71	54	

3/31/05 Update Performance Measure	Actual Result for 2002-03	Actual Result for 2003-04	Status of measure 7/1/04 thru 3/31/05	Explanatory Comments (as needed)
Number of Neighborhood Watch Programs presented to the community	N/A	26	15	
Number of arrests made by Detectives based on observed crime patterns	N/A	N/A	45	
Percent of criminal incidents reduced at schools	N/A		38%	
Variance of Clear Part 1 crimes compared to National rate	N/A		PT I Violent 60%/49% PT I Property 17%/18.7%	
Percent of felony warrants executed from the warrant file	N/A		1%	

[010-5450] ANIMAL CONTROL SERVICES UNIT				Responsibility: Police Department
Hours per week spent enforcing animal license provisions of State law and local ordinance	8 hours/day	40 hours/week	40	
Number of animal licenses issued to Morgan Hill residents	1,128	716	653	
Number of Morgan Hill impounded animals returned to their owners within 4 days	32	59	18	
Number of unlicensed dogs impounded or owners cited compared to the number of licensed dogs	135 1,123	81 unl.imp./781 lic. 15 cited	41 unl.imp./7653 lic. 25 cited	
Percent of unaltered to altered Morgan Hill animals receiving licenses	N/A	22% 141/640	20% 112/560	

[010-8270] POLICE DISPATCH SERVICES				Responsibility: Police Department
Number of 911 calls received	6,500	6,314	6,855	
Average time to answer 98% of 911 phone calls	11 seconds (30% less than 5 seconds)	11 seconds (29% less than 5 seconds)	2 seconds	
Average time between receipt of a Priority I call and dispatch of a unit.	1:57	2:18	0:58	

[206-5120] PLANNING				Responsibility: Community Development Department
Number and percent of SR Applications processed within 90 days <sup>1</sup> (excluding CEQA projects requiring initial study or EIR)  <sup>1</sup> For FY 04/05 the performance measure will be the percent processed within 80 days	32 applications: 9 incomplete, 18 completed within 90 days of application, 5 went before ARB within 90 days of app. = 100%	23 applications: 11 approved within 90 days; 1 approved in 91 days; 1 set for ARB meeting within 90 days; 6 cannot go before ARB until CC & PC approves related projects; 4 incomplete = 96%	16 applications, 9 approved or will go to ARB within 80 days, 1 approved within 93 days, 5 need ZA approval prior to SR approval, 1 needs Environmental approval prior to SR approval = 94%	

<b>3/31/05 Update</b>				
Performance Measure	Actual Result for 2002-03	Actual Result for 2003-04	Status of measure 7/1/04 thru 3/31/05	Explanatory Comments (as needed)
Number of applications filed which require Architecture Review Board, Planning Commission or City Council approval	219	185	163	
Percent of RDCS Projects provided 30-day notice of default or expiration of allotment	99%	100%	100%	
Number of applications (which require ARB, PC or CC approval) processed per planner	Senior – 65 Assoc – 56 Asst – 44 Staff – 54	Senior – 37 Assoc – 114 Staff – 34	Senior - 26 Associate - 82 Staff - 55	
Percent of DRC comments received on time	85%	70%	72%	

[206-5130] BUILDING DIVISION			Responsibility: Community Development Department	
Percentage of inspections accomplished within a 24 hour response timeline	100%	96.5%	96.8 %	ALL RESULTS ARE FOR CALENDAR YEAR 2004.
Number of complaints processed	210	908	1096	
Number of Code Enforcement cases investigated or mitigated	188	871	1029	
Percent of Code Enforcement cases completed and closed	91%	96%	94 %	
Percent of Permits issued over the counter	N/A	N/A	32 %	

[010-5140] CABLE TELEVISION			Responsibility: Public Works Department	
Number of cable complaints received	12	12	5	
Number of cable complaint processes completed	12	12	5	
Average number of days taken to completely process each cable complaint	10.67	3.25	27.20	

[010-5440] PUBLIC WORKS PARK MAINTENANCE			Responsibility: Public Works Department	
Average Customer Work Order Response Time Non-Emergency Emergency	2 Days, 14 Hours 0	1 Day, 20 hours 0	1 Day, 16 hours 0	
Annual Maintenance Cost	\$14,136/acre	\$12,600./acre	Result Recorded Annually	

3/31/05 Update Performance Measure	Actual Result for 2002-03	Actual Result for 2003-04	Status of measure 7/1/04 thru 3/31/05	Explanatory Comments (as needed)
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[202-6100] PUBLIC WORKS STREET MAINTENANCE				Responsibility: Public Works Department
Average Customer Work Order Response Time Non-Emergency Emergency	4 Days 1.5 Hours	1 Day, 7.5 hours 22 Minutes	1 Day, 2.75 hours 1 hour, 13, minutes	
Vegetation Abatement Program	N/A	4 <sup>th</sup> qtr = 75% complete	N/A	This measure can not be an annual cumulative number. 100% of abatement typically must be accomplished in each the 3 <sup>rd</sup> and 4 <sup>th</sup> quarters of a given year.
Storm Drain System Facilities	N/A	100% complete	100%	
Repair Maintenance Related Permanent Asphalt	N/A	117 Tons	50 Tons	
Curb Miles of Roadside Weed Abatement	27.27 Curb Miles	N/A	N/A	Discontinued
Tons of Debris Removed by Street Sweeping	423 Tons	N/A	N/A	Discontinued

[206-5410] PUBLIC WORKS ENGINEERING				Responsibility: Public Works Department
Number of Final Maps Recorded	16	8	14	
Number of Plan Checks returned on time	145 out of 166	162/182	115/127	
Number of Planning/Building Division referrals received	127	136	90	
Hours spent inspecting public improvements constructed by private developers	2,170	1,854	2,225	

[232-5800] SOLID WASTE MANAGEMENT DIVISION				Responsibility: Public Works Department
Dollars spent communicating recycling information (excluding employee services)	\$87,044	\$81,348	\$35,742	
Tons of recycling collected	8,992	9653	7,636	
Number of environmental promotions distributed	10	12	8	
Percentage of customers ranking their solid waste management services "good" or "excellent"	N/A	94%	N/A	
Percentage of customers who say they have enough information to properly participate in the City's recycling program	N/A	79%	N/A	
Percentage of customers participating in the recycling program	63%	63%	59%	
Solid waste diversion rate	47%	50%	50%	
Dollars spent communicating recycling information per ton of recycling collected	\$9.68/ton	\$8.43/ton	\$4.68/ton	

3/31/05 Update Performance Measure	Actual Result for 2002-03	Actual Result for 2003-04	Status of measure 7/1/04 thru 3/31/05	Explanatory Comments (as needed)
<b>[640-5900] PUBLIC WORKS SEWER OPERATIONS</b>				Responsibility: <b>Public Works Department</b>
Average Customer Work Order Response Time Non-Emergency Emergency	20 Hours 12 Minutes	1 Day, 16 hours 28 Minutes	9 hours, 14 minutes 8 minutes	
Sewer Main Restrictions Cleared	29	24	41	
LF Sewer Main Flushed/Restrictions Cleared	705035	707,600	300,732	
<b>[650-5710] PUBLIC WORKS WATER OPERATIONS</b>				Responsibility: <b>Public Works Department</b>
Average Customer Work Order Response Time Non-Emergency Emergency	21 Hours 22 Minutes	18 Hours 16 Minutes	19 hours, 19 minutes 8 minutes	
<b>[650-5720] PUBLIC WORKS METER READING</b>				Responsibility: <b>Public Works Department</b>
Average Customer Work Order Response Time Non-Emergency Emergency	18 Hours 14 Minutes	21 Hours 7 Minutes	14 hours, 11 minutes 13 minutes	
Fire Hydrant Maintenance Performed	414	146	90	Painting during summer & fall, maintenance during winter
Water Meter Tested - 2" or Greater	20	20	94	
Annual Cost to Read a Meter	\$0.59 per meter	\$0.57 per meter	Results Recorded Annually	
<b>[650-5760] WATER CONSERVATION</b>				Responsibility: <b>Public Works Department</b>
Cooperative efforts with Santa Clara Valley Water District to reduce water consumption	3	3	2	
<b>[745-8280] PUBLIC WORKS CIP ADMINISTRATION</b>				Responsibility: <b>Public Works Department</b>
Number of Engineering Division hours worked on all CIP Projects	10,879	8,540	5,269	
Number of CIP projects awarded	17	13	11	
Percentage of CIP projects completed within Council approved contingency	90%	90%	100%	
Hours spent inspecting public improvements constructed as CIP projects	3,303	1,698	1,404	



3/31/05 Update Performance Measure	Actual Result for 2002-03	Actual Result for 2003-04	Status of measure 7/1/04 thru 3/31/05	Explanatory Comments (as needed)
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[317-7000] BUSINESS ASSISTANCE – ADMINISTRATION		Responsibility: Business Assistance and Housing Services Department		
Value of building permits pulled for commercial or industrial buildings and tenant improvements	\$11.1 million	\$16,092,091	\$13,562,199	
Square footage in building permits pulled for new commercial/industrial buildings and tenant improvements	227,381	180,269	272,860	
Amount of sales or property tax generated from new businesses	\$92,700	163,516	334,622	
Number of new businesses generating sales tax revenue	209	13	103	
Amount of square footage of commercial/ industrial buildings and tenant improvements developed by businesses receiving ombudsman assistance	N/A	177,141	59,998	
Number of jobs created/retained by businesses receiving ombudsman assistance	N/A	649	161	
Number of marketing packets distributed to prospective businesses	N/A	290	155	
Number of businesses receiving ombudsman assistance	N/A	123	73	
Percent of new commercial/industrial buildings and tenant improvements developed by businesses receiving ombudsman assistance	N/A	N/A	30.3%	

[327-7100] HOUSING		Responsibility: Business Assistance and Housing Services Department		
Number of Refinance application requests	110	89	50	
Number of BMR Rental and Homeownership application requests	358	163	256	
Number of Refinancing requests approved	291	34	19	
Number of BMR rental and Homeownership applications approved	Included Above	121	214	
Number of BMR Rental and BMR units sold	22	51	28	
Number of Refinance, BMR Rental and Homeownership applications received per F.T.E. staffing for the program	250/FTE	203.5/F.T.E	224/F.T.E.	
Amount of Agency funds contributed per new rental unit	N/A	N/A	0	
Leverage ratio of Agency funds to other funds for rental projects	N/A	N/A	0	

3/31/05 Update Performance Measure	Actual Result for 2002-03	Actual Result for 2003-04	Status of measure 7/1/04 thru 3/31/05	Explanatory Comments (as needed)
Amount of Agency funds contributed per new ownership unit	N/A	N/A	0	
Leverage ratio of Agency funds to other funds for ownership projects	N/A	N/A	0	



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: JUNE 1, 2005***

### **APPROVE FINAL MAP FOR SAN PEDRO VILLAS PHASE III (TRACT 9695)**

#### **RECOMMENDED ACTION(S):**

- 1) Approve the final map
- 2) Authorize the recordation of the map following recordation of the Development Improvement Agreement

**EXECUTIVE SUMMARY:** Tract 9695 is a 15 lot subdivision located on the northeast corner of the San Pedro Avenue and Butterfield Boulevard intersection (see attached diagram). The developer has completed all the conditions specified by the Planning Commission in the approval of the Tentative Map on June 8, 2004.

The developer has furnished the City with the necessary documents to complete the processing of the Final Map and has made provision with a Title Company for the recordation of the Final Map.

**FISCAL IMPACT:** Development review for this project is from development processing fees.

**Agenda Item # 2**

**Prepared By:**

\_\_\_\_\_  
**Senior Engineer**

**Approved By:**

\_\_\_\_\_  
**Public Works Director**

**Submitted By:**



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: June 1, 2005***

### **ENVIRONMENTAL ASSESSMENT**

#### **EA-05-05: EDMUNDSON – IRC BIKE PATH**

##### **RECOMMENDED ACTIONS:**

1. Approve Addendum to the Adopted Mitigated Negative Declaration for the Morgan Hill Community Indoor Recreation Center

**EXECUTIVE SUMMARY:** A request to amend the adopted Mitigated Negative Declaration for the Morgan Hill Community Indoor Recreation Center to include a multi-use trail. CEQA allows lead agencies to prepare an addendum to an adopted Mitigated Negative Declaration when it can be demonstrated that the changes to the project, and the environmental impact associated with such changes, are minor when compared to the original scope of the project and the original impacts. Because the City Council was the hearing body that adopted the Mitigated Negative Declaration, the Council must also consider any addendums.

The original project was approved on April 7, 2004 and included the construction of a 51,900 square foot indoor recreation center, paved surface parking, and landscaping across the 8.5 acre site. The proposed 8 foot wide trail will be located entirely within the original project boundary and in an area originally planned for landscaping and woodchips. The trail is aligned on a north-south orientation and connects Edes Court and Edmundson Avenue with the recreation center and each other. The trail location is consistent with future planned trail extensions north of Edes Court and South of Edmundson Avenue.

The proposed trail will not change the scope of the project, result in new or enlarged impacts, or conflict with previously adopted mitigation and avoidance measures. Staff recommends approval of the Addendum to the Project Negative Declaration. No further environmental review is required.

**FISCAL IMPACT:** Costs associated with the preparation of the addendum have been charged to the Capital Improvement Program.

Agenda Item #3

Prepared By:

Contract Planner

Approved By:

Kathy Molloy Previsich  
CDD Director

Submitted By:

J. Edward Tewes,  
City Manager

**ADDENDUM TO AN INITIAL STUDY  
MORGAN HILL COMMUNITY  
INDOOR RECREATION CENTER PROJECT  
APRIL 2005**

**Purpose of Addendum**

The purpose of this Addendum is to document the environmental impacts associated with a proposed change in the previously proposed project. CEQA allows Lead Agencies to prepare an Addendum to an Initial Study/Negative Declaration when it can be demonstrated that the changes to the project – and the environmental impacts from such changes – are minor, when compared to the original scope of the project and the original impacts.

**Description of Proposed Change to the Project**

The original scope of the project, as evaluated in the Morgan Hill Community Indoor Recreation Center Project Initial Study/Mitigated Negative Declaration adopted April 7, 2004, included the development of an indoor recreation center, associated parking, and landscaping.

The City of Morgan Hill has now modified the project by adding a multi-use trail component to the project site (refer to Figures 1, 2, and 3). The proposed trail will be located on the eastside of the project site. This area was originally planned to be covered with wood chips for weed control. The new trail will be eight (8) feet wide and paved to accommodate various uses. The area adjacent to the trail will be landscaped with native grasses, oak trees and sycamore trees. The trail will be constructed between Edes Court and Edmundson Avenue and will connect to the access road in front of the Indoor Recreation Center and with the Center's parking lot at its northeast corner. The trail will be approximately 1,094 feet in length.

**Environmental Impacts of the Proposed Change to the Project**

Both the original and revised projects will result in the construction of the 51,900 square foot Indoor Recreation Center, paved surface parking, and landscaping on an 8.5 acre site. The proposed trail will be located within the original project site boundaries.

The trail alignment will not change the existing setback from the Little Llagas Creek, a flood control channel under the jurisdiction of the Santa Clara Valley Water District. With no change to the setback and implementation of the original project's erosion control measures, there will be no impacts on the channel or water quality of the storm water runoff from the site. All of the original project's impacts and proposed mitigation and avoidance measures will be the same. Therefore, the revised project will not result in any new impacts that were not already addressed in the Initial Study.

**Conclusion**

Based on the above discussion, it is concluded that the proposed change in the scope of the project will not result in any new environmental impacts. Nor will the revised project result in an increase in the magnitude of previously-identified environmental impacts. Therefore, no further environmental review is required pursuant to CEQA Section 15162 and 15164. This Initial Study Addendum will be included in or attached to the Initial Study/Mitigated Negative Declaration and the City of Morgan Hill will consider the addendum with the IS/MND, prior to making a decision on the proposed modification to the project.



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: JUNE 1, 2005***

**Agenda Item # 4**

**Prepared By:**

**Deputy City Clerk**

**Approved By:**

**City Clerk**

**Submitted By:**

**City Manager**

### **ADOPT ORDINANCE NO. 1724, NEW SERIES**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A PRECISE DEVELOPMENT PLAN FOR PHASES 7, 8, 9 & 10 (81 UNITS) OF THE CAPRIANO/MADRONE CROSSING DEVELOPMENT. THE RESIDENTIAL DEVELOPMENT PLAN COVERS A 68 ACRE SITE LOCATED ON THE WEST SIDE OF MONTEREY ROAD, SOUTH SIDE OF TILTON AVENUE, ON THE EAST SIDE OF HALE AVE. (APN's 764-09-005, 006, 007, 008, 009, 010 & 014) (APPLICATION ZAA-04-01: HALE-GLENROCK BUILDERS)**

### **RECOMMENDED ACTION(S):**

**Waive** the Reading, and **Adopt** Ordinance No. 1724, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived.

### **EXECUTIVE SUMMARY:**

On May 18, 2005, the City Council Introduced Ordinance No. 1724, New Series, by the Following Roll Call Vote: AYES: Carr, Grzan, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: Kennedy.

### **FISCAL IMPACT:**

None. Filing fees were paid to the City to cover the cost of processing this application.

## **ORDINANCE NO. 1724, NEW SERIES**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A PRECISE DEVELOPMENT PLAN FOR PHASES 7, 8, 9 & 10 (81 UNITS) OF THE CAPRIANO/MADRONE CROSSING DEVELOPMENT. THE RESIDENTIAL DEVELOPMENT PLAN COVERS A 68 ACRE SITE LOCATED ON THE WEST SIDE OF MONTEREY ROAD, SOUTH SIDE OF TILTON AVENUE, ON THE EAST SIDE OF HALE AVE. (APN's 764-09-005, 006, 007, 008, 009, 010 & 014) (APPLICATION ZAA-04-01: HALE-GLENROCK BUILDERS)**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1.** The proposed zoning amendment is consistent with the Zoning Ordinance and the General Plan.

**SECTION 2.** The zone change is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.050 of the Municipal Code.

**SECTION 3.** An environmental initial study has been prepared for this application and has been found complete, correct and in substantial compliance with the requirements of the California Environmental Quality Act. A Mitigated Negative Declaration has been filed.

**SECTION 4.** The City Council finds that the proposed precise development plan is consistent with the criteria specified in Section 18.12.060 and Chapter 18.18 of the Morgan Hill Municipal Code.

**SECTION 5.** The Planning Commission hereby recommends approval of a precise development plan for phases 7-10 as contained in that certain series of documents date stamped April 11, 2005, on file in the Community Development Department, entitled "Glenrock Vesting Tentative Map and Site Development plan" prepared by MH Engineering. These documents show the location and sizes of all lots in this development and the location and dimensions of all proposed buildings, vehicle and pedestrian circulation ways, recreational amenities, parking areas, landscape areas and any other purposeful uses on the project. These documents shall be consistent with the provisions of Ordinance 1679 and shall also include the following modifications and conditions of approval:

1. The Architectural Review Board shall review and approve of a "new plan 4" which is of similar size 4050-4560 sq. ft. and quality prior to the approval of any final map approvals associated with the project.

2. Each phase of the project shall equal the number of allocations granted per fiscal year. The only exception shall be Phase 8 which shall contain 20 residential lots for the 20 FY 2006-07 allocations and include the creation of lot 33 as a non residential lot.
3. The project shall provide 3 BMRs with the 34 2005-06 allocations, 2 BMRs with the 20, 2006-07 allocations, 2 BMRs with the 15, 2007-08 allocations, and 1 BMR with the 12 2008-09 allocations.
4. The following project commitments shall be completed as follows:
  - Phase 8: All street improvements in R-2 zoning to be completed with phase 8 construction. Full frontage improvements (street, curb, gutter, sidewalk, storm, underground utilities) in front of the Berryessa, Silveria & Morgante property and the entire project frontage (including nursery site) on Tilton Ave. shall be completed with Phase 8.
  - Phase 9: Full frontage improvements (street, curb, gutter, sidewalk, storm, underground utilities) in front of the Burnett Elementary school for a distance of approximately 598 ft. in length shall be completed with Phase 9 or sooner at a minimum cost of \$3,000/unit.
  - Phase 10: Installation of a volleyball court within the 5 acre park shall be completed with Phase 10
5. The size of the of R-1 12,000 lots along Tilton Ave. shall be reduced to include no more than 6ft. of the City's right of way on Tilton.
6. All single family homes within the R-1 12,000 portion of the project shall adhere to the R-1 12,000 site development standards. This requirement does not apply to BMRs, Moderate units and condominium units within the project.
7. All primary building setbacks shall be measured from the edge of the right of way.
8. Phasing shall be consistent with the "Recommended" plan dated April 26, 2005. A phasing plan showing a logical and orderly sequence of development shall be submitted to and approved by staff prior to final map approval.
9. Any amendment required by Site and Architectural Review Board shall be incorporated into the project plans.
10. A revised precise development plan incorporating the above requirements shall be provided to the Planning Division prior to final map approval of Phases 7-10.



**SECTION 8.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

**SECTION 9.** Effective Date; Publication. This Ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 18<sup>th</sup> Day of May 2005, and was finally adopted at a regular meeting of said Council on the Day of June 2005, and said ordinance was duly passed and adopted in accordance with law by the following vote:

**AYES: COUNCIL MEMBERS:**  
**NOES: COUNCIL MEMBERS:**  
**ABSTAIN: COUNCIL MEMBERS:**  
**ABSENT: COUNCIL MEMBERS:**

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
Irma Torrez, City Clerk

\_\_\_\_\_  
Dennis Kennedy, Mayor

**∞ CERTIFICATE OF THE CITY CLERK ∞**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA,** do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of June 2005.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

DATE: \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: JUNE 1, 2005***

**Agenda Item # 5**

**Prepared By:**

**Deputy City Clerk**

**Approved By:**

**City Clerk**

**Submitted By:**

**City Manager**

### **ADOPT ORDINANCE NO. 1725, NEW SERIES**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT, DA 04-08: TILTON-GLENROCK FOR APPLICATION MP-02-03: TILTON-GLENROCK (APNS 764-9-06, 16, 17, 32 & 33)**

### **RECOMMENDED ACTION(S):**

**Waive** the Reading, and **Adopt** Ordinance No. 1725, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived.

### **EXECUTIVE SUMMARY:**

On May 18, 2005, the City Council Introduced Ordinance No. 1725, New Series, by the Following Roll Call Vote: AYES: Carr, Grzan, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: Kennedy.

### **FISCAL IMPACT:**

None. Filing fees were paid to the City to cover the cost of processing this application.

## **ORDINANCE NO. 1725, NEW SERIES**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT, DA 04-08: TILTON-GLENROCK FOR APPLICATION MP-02-03: TILTON-GLENROCK (APNS 764-9-06, 16, 17, 32 & 33)**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:**

**SECTION 1.** The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

**SECTION 2.** The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

**SECTION 3.** The Planning Commission, pursuant to Chapter 18.78.125 of the Morgan Hill Municipal Code, awarded 81 building allocations for fiscal years 2005-2006 thru 2008-2009 to that certain project herein after described as follows:

<u>Project</u>	<u>Total Dwelling Units</u>
MP-02-03: TILTON-GLENROCK	81

**SECTION 4.** References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

**SECTION 5.** The City Council hereby finds that the development proposal and agreement approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

**SECTION 6.** Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

**SECTION 7.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

**SECTION 8.** Effective Date Publication. This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 18<sup>th</sup> Day of May 2005, and was finally adopted at a regular meeting of said Council on the Day of June 2005, and said ordinance was duly passed and adopted in accordance with law by the following vote:

**AYES: COUNCIL MEMBERS:**  
**NOES: COUNCIL MEMBERS:**  
**ABSTAIN: COUNCIL MEMBERS:**  
**ABSENT: COUNCIL MEMBERS:**

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
**Irma Torrez, City Clerk**

\_\_\_\_\_  
**Dennis Kennedy, Mayor**

**∞ CERTIFICATE OF THE CITY CLERK ∞**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA,** do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1725, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of June 2005.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

DATE:\_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**



**REDEVELOPMENT AGENCY/CITY  
COUNCIL STAFF REPORT**

**MEETING DATE:** *June 1, 2005*

**AGREEMENT WITH MORGAN HILL COMMUNITY  
FOUNDATION FOR HIRAM MORGAN HILL STATUE**

**RECOMMENDED ACTION(S):**

Adopt City Council and Redevelopment Agency resolutions authorizing the Executive Director to execute an agreement to advance \$52,000 to the Morgan Hill Community Foundation regarding "Waiting for the Train" statue (Agreement).

**Agenda Item # 6**

**Prepared By:**

**BAHS Manager**

**Approved By:**

**BAHS Director**

**Submitted By:**

**Executive Director**

**EXECUTIVE SUMMARY:** On February 24, 2005, the City Council committed \$50,000 of its \$2.6 million in Metropolitan Transportation Commission (MTC) "Transportation for Livable Communities" (TLC) grant funds to the Arts and Cultural Alliance of Morgan Hill (ACA), a division of the Morgan Hill Community Foundation (Foundation), for a bronze sculpture of Hiram Morgan Hill and his family entitled "Waiting for the Train" (Statue). The City Council also committed an additional \$52,000 which it agreed to incorporate into the FY2005-2006 Redevelopment Agency (Agency) budget. The ACA estimates that the project will cost approximately \$102,000 plus site preparation costs.

In the attached agreement between the Agency and the Foundation (Agreement), the Foundation is responsible for the design, construction, installation, oversight, inspection and payment and shall ensure that the Statue is completed in time for the Morgan Hill Centennial celebration in May 2006. The Agency in return will advance \$52,000 to the Foundation. The Agreement also requires the Foundation to use its best efforts to raise money to reimburse the Agency, including preparation of a fundraising plan and submitting applications for funding grants.

The attached resolutions make findings that the Statue project constitutes a public improvement as defined by California Redevelopment Law, which thereby permits the expenditure of Redevelopment funds.

City staff will work with the Foundation to determine the exact location and installation parameters of the Statue project.

**FISCAL IMPACT:** Sufficient funding for this project (\$52,000) is included in the Redevelopment Agency's proposed FY2005-2006 budget (317-Economic Development).

Attachments

## **RESOLUTION NO. MHRA-**

### **A RESOLUTION OF THE MORGAN HILL REDEVELOPMENT AGENCY APPROVING THE ADVANCE OF FUNDS BY THE MORGAN HILL REDEVELOPMENT AGENCY TO MORGAN HILL COMMUNITY FOUNDATION FOR THE DESIGN AND CONSTRUCTION OF THE "WAITING FOR THE TRAIN" STATUE, ITS INSTALLATION AT THE TRAIN STATION AND ITS DEDICATION TO THE CITY UPON COMPLETION**

**WHEREAS**, in order to effectuate the provisions of the Community Development Plan ("Redevelopment Plan") for the Ojo de Agua Community Development Project ("Project Area"), originally adopted by City Ordinance No. 552 on June 3, 1981, and as amended and restated by the Amendment to the Community Development Plan for the Ojo de Agua Community Development Project adopted by City Ordinance No. 1429 N.S. on May 5, 1999, the Morgan Hill Redevelopment Agency ("Agency") proposes to enter into an Agreement Between Morgan Hill Redevelopment Agency and Morgan Hill Community Foundation Regarding "Waiting for the Train Statue" ("Agreement"); and

**WHEREAS**, on December 14, 2004, the Metropolitan Transportation Commission ("MTC") approved the City of Morgan Hill's grant request in the amount of \$2,626,638 ("MTC Grant") to reconstruct and improve five blocks of Depot Street (between Main and 5<sup>th</sup> Street) encompassing the Morgan Hill Train Station in conformance with the new Morgan Hill Downtown Plan. The proposed reconstruction and improvement of Depot Street includes installing wide tree-lined sidewalks on the east side of the street, planting strips and sidewalks on the west, bicycle lanes on both sides of the street, pedestrian-scaled street lighting, special paving at street intersections that ties to the pedestrian walkways, narrow traffic lanes with median islands approaching the intersections, additional street landscaping, street furniture and public art ("Depot Street Project"). \$50,000 of the MTC Grant was specifically earmarked for public art; and

**WHEREAS**, On January 19, 2005, the Agency approved and committed the required \$341,314 in local matching funds for the Depot Street Project; and

**WHEREAS**, the Morgan Hill Community Foundation submitted a proposal to the City of Morgan Hill City Council ("City Council") for funding the design and construction of a life-size bronze sculpture entitled "Waiting for the Train," its installation at the Morgan Hill train station, owned by the Agency and located at 17300 Depot Street, and its dedication to the City of Morgan Hill upon completion ("Statue Project"); and

**WHEREAS**, the Statue Project constitutes a public improvement project as defined by California redevelopment law; and

**WHEREAS**, the estimated cost of the Statue Project is \$102,000 plus site preparation and installation costs. The Foundation requests the City to commit \$50,000 in MTC grant funds

("\$50,000 MTC Grant") and advance \$52,000 plus site preparation costs for the Statue Project; and

**WHEREAS**, the City Council considered the Foundation's proposal at its February 23, 2005 meeting and voted unanimously to approve the use of \$50,000 of the MTC grant and advance \$52,000 ("Advance") to the Foundation for the Statue Project; and

**WHEREAS**, due to City budget constraints and the impracticality of traditional methods of financing, it is desirable that the \$52,000 Advance approved by the City Council come from Redevelopment Agency funds; and

**WHEREAS**, pursuant to the requirements of Health and Safety Code Section 33445, the City Council has, by separate resolution, consented to the Agency's payment of part of the cost of the design, development, installation and construction of the statue and has determined the following:

(1) The Statue Project, will benefit the Project Area and the immediate neighborhood as it will provide social, economic and educational benefits to, and promote the general welfare of the residents, taxpayers of, and visitors to the Project Area. This in turn will encourage private-sector investment in the Project Area, thereby facilitating the redevelopment of the Project Area.

(2) The Advance for the creation and installation of the statute in the Project Area will assist in the elimination of one or more blighting conditions within the Project Area and is consistent with the Agency's implementation plan adopted pursuant to Section 33490. Specifically, the City Council has determined that the Project Area is an area in which the combination of conditions of blight is so prevalent and so substantial that there is a reduction of, or lack of, proper utilization of the area to such an extent that it constitutes a serious physical, social and economic burden on the community which cannot reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment.

(3) No other reasonable means of financing the creation and installation of the statue exist. Traditional Methods of financing such as the issuance of general obligation bonds are unavailable as a practical matter because of the extraordinary majority voter approval requirements of two-thirds of the electorate. Assessment financing or special tax financing could overburden benefiting properties with assessments or special taxes and, in addition, special taxes require a two-thirds vote and assessments are subject to a majority protest.

**NOW, THEREFORE**, based on the evidence presented to the City Council and the Agency, including the written staff report and oral testimony on this matter the Board of Directors of the Agency does hereby find, determine, resolve and order as follows:

**Section 1.** All of the statements set forth in the Recitals above are hereby incorporated by reference and restated as true and correct.

**Section 2.** The statue will benefit the Project Area by providing a focal point of Depot Street and the immediate neighborhood. It will provide social, economic and educational benefits to, and promote the general welfare of the residents, taxpayers of and visitors to the Project Area. This In turn will encourage private-sector investment in the Project Area, thereby facilitating the redevelopment of the Project Area.

**Section 3.** The Advance for the creation and installation of the statute in the Project Area will assist in the elimination of one or more blighting conditions, within the Project Area and is consistent with the Agency's implementation plan adopted pursuant to Section 33490. Specifically, Depot Street currently contains areas without curb, gutter, and sidewalk. It also contains vacant and underutilized properties, properties which suffer from depreciated or stagnant property values and impaired investments, and deteriorated, aged and obsolete buildings. Such conditions tend to further deterioration and disuse because of the lack of incentive to landowners and their inability to improve, modernize or rehabilitate their property while the condition of the neighboring property remains unchanged. The reconstruction and beautification of Depot Street, which includes the Statue Project, will consist of installing wide tree-lined sidewalks, street landscaping, bicycle lanes, pedestrian walkways, median islands, and street furniture, will assist in the elimination of conditions of blight within the Project Area, which are caused by inadequate public improvements. This in turn will assist in eliminating factors which prevent or substantially hinder the economically viable use or capacity of buildings or lots and will encourage private-sector investment in the Project Area, thereby facilitating the redevelopment of the Project Area.

**Section 4.** No other reasonable means of financing the Statue Project is available to the City of Morgan Hill. Traditional methods of financing such as the issuance of general obligation bonds are unavailable as a practical matter because of the extraordinary majority voter approval requirements of two-thirds of the electorate. Assessment financing or special tax financing could overburden benefiting properties with assessments or special taxes and, in addition, special taxes require a two-thirds vote and assessments are subject to a majority protest.

**Section 5.** The Agency hereby authorizes the Advance to be made from any revenues of the Agency lawfully available therefore.

**Section 6.** The Agency hereby authorizes its Executive Director to execute and deliver the Agreement in substantially the form presented to the Agency at this meeting and now on file with the Business Assistance and Housing Services Department, with such changes therein or such other documents or actions as may be necessary or convenient and as the Executive Director may approve, in his discretion, as being in the best interests of the Agency, such



approval to be conclusively evidenced by the execution and delivery thereof, in order to effectuate the design, construction and installation of the Statue by the Foundation.

**PASSED AND ADOPTED** by the Morgan Hill Redevelopment Agency at a Special Meeting held on the 1<sup>st</sup> Day of June, 2005, by the following vote:

**AYES:**            **AGENCY MEMBERS:**  
**NOES:**          **AGENCY MEMBERS:**  
**ABSTAIN:**      **AGENCY MEMBERS:**  
**ABSENT:**       **AGENCY MEMBERS:**

**∞ CERTIFICATION ∞**

I, **IRMA TORREZ, AGENCY SECRETARY**, do hereby certify that the foregoing is a true and correct copy of Resolution No. MHRA- \_\_\_\_ adopted by the Morgan Hill Redevelopment Agency at a Special Meeting held on June 1, 2005.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

Date: \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, Agency Secretary**

**AGREEMENT BETWEEN THE MORGAN HILL REDEVELOPMENT  
AGENCY AND THE MORGAN HILL COMMUNITY FOUNDATION  
REGARDING "WAITING FOR THE TRAIN" STATUE**

This agreement ("Agreement") is entered into effective as of \_\_\_\_\_, 2005 by and between the Morgan Hill Redevelopment Agency ("Agency"), a public body corporate and politic and the Morgan Hill Community Foundation ("Foundation"), a non-profit California corporation.

**RECITALS**

A. On December 14, 2004, the Metropolitan Transportation Commission (MTC) approved the City of Morgan Hill's grant request in the amount of \$2,626,638 ("MTC Grant") to reconstruct and improve five blocks of Depot Street (between Main and 5<sup>th</sup> Street) encompassing the Morgan Hill train station in conformance with the new Morgan Hill Downtown Plan. The proposed reconstruction and improvement of Depot Street includes installing wide tree-lined sidewalks on the east side of the street, planting strips and sidewalks on the west, bicycle lanes on both sides of the street, pedestrian-scaled street lighting, special paving at street intersections that ties to the pedestrian walkways, narrow traffic lanes with median islands approaching the intersections, additional street landscaping, street furniture and public art ("Depot Street Project"). \$50,000 of the MTC Grant was specifically earmarked for public art.

B. On January 19, 2005 the Agency approved and committed the required \$341,314 in local matching funds for the Depot Street Project.

C. The Foundation has submitted a proposal ("Proposal") to the City of Morgan Hill City Council for funding of a project ("Project") to create a life-size bronze sculpture and install it at the Morgan Hill train station on Depot Street. The sculpture, entitled "Waiting for the Train," is of Hiram Morgan Hill, his wife Diana and his daughter Diane in 1891 waiting for the train to take them to San Francisco ("Statue"). Local artist sculptor and long time Morgan Hill resident, Marlene Amerian, has designed the Statue as a focal point of the Depot Street Project. The Foundation proposes to dedicate the Statue to the City upon completion.

D. While the artist has volunteered to donate her time to the Project, the Proposal, attached as Exhibit A, estimates that out of pocket expenses to construct the Statue would cost approximately \$102,000 plus site preparation and installation costs. The Proposal requests that the City commit the \$50,000 in MTC grant funds earmarked for public art and advance \$52,000 plus site preparation and installation costs for the Project.

E. The City Council considered the Proposal at its February 23, 2005 meeting and voted unanimously to commit \$50,000 from the MTC Grant and advance \$52,000 ("52,000 Advance") to the Foundation for the Project with the understanding that City staff and the Foundation would more specifically identify sources for fund repayment, outline a plan for achieving the repayment, and report back to the City Council periodically on the status of the project and fundraising efforts.

F. Due to City budget constraints and the impracticality of traditional methods of financing it is desirable that the 52,000 Advance approved by the City Council come from Redevelopment Agency funds.

### AGREEMENT

**NOW, THEREFORE**, in consideration of the mutual promises and agreements set forth herein, the Parties agree as follows:

1. FOUNDATION RESPONSIBILITY. The Foundation shall be solely responsible for the Project, including, but not limited to, design, construction, installation, oversight, inspection and payment and shall ensure the Project's completion in time for the Morgan Hill Centennial celebration in May of 2006. The exact location for the installation of the Statue ("Statue Site") shall be determined in conjunction with the City.

2. STATUE INSTALLATION. The exact location for the installation of the Statue ("Statue Site") shall be determined in conjunction with the Agency. Once agreed upon the Foundation shall prepare, or cause to be prepared, plans for installation and shall submit these plans to the Agency for approval before submitting to the City for any and all necessary permits and approvals.

3. SITE ACCESS. The Foundation and its officers, agents, employees and contractors shall have reasonable access to the selected Statue Site for purposes of designing, constructing and, after obtaining all necessary permits and approvals from the City, installing the Statue.

4. STATUE DEDICATION. The Foundation shall dedicate the Statue to the City upon its completion and installation.

5. FUNDING REQUESTS. The Foundation shall submit to the Agency written requests for payment and/or reimbursement of costs and expenses associated with the Project ("Funding Requests") in a form acceptable to the Agency. Any and all Funding Requests shall be documented by invoices and/or receipts and shall be submitted to the Agency no more than once per month.

6. FUNDING DISBURSEMENT. Within two weeks of receiving a Funding Request pursuant to Paragraph 3 above, the Agency shall determine whether to approve the funding requested or any portion thereof and disburse such approved funding to the Foundation. In no event shall the Agency disburse more than a total of

Fifty Two Thousand Dollars (\$52,000) to the Foundation for costs and expenses associated with the Project. The Foundation shall use all funds disbursed by the Agency pursuant to this Agreement solely for payment and/or reimbursement of costs and expenses associated with the Project.

7. PAYMENT OF COSTS/EXPENSES. The Foundation shall be responsible for paying in a timely fashion all costs and expenses associated with the Project pursuant to the Payment Schedule set forth in the attached Proposal regardless of whether these costs and expenses exceed the \$52,000 Advance and/or the \$50,000 from the MTC Grant. The Foundation shall also be responsible for raising funds and paying for site preparation and installation costs and expenses of the Project.

8. REIMBURSEMENT TO AGENCY. The Foundation will work diligently and use its best efforts to raise money to reimburse the Agency for the \$52,000 Advance. Specifically, the Foundation will 1) prepare and provide a copy of its fundraising plan to the Agency and 2) provide on a quarterly basis reports to the Agency of all meetings held with potential donors, copies of solicitation letters and grant applications sent. After payment of costs for site preparation and installation, all funds raised by the Foundation for the Project up to the amount of Fifty Two Thousand Dollars (\$52,000) shall be reimbursed to the Agency.

9. INDEMNITY. This Agreement is made upon the express condition that the Foundation shall indemnify and hold harmless the Agency and its officers, agents and employees against any and all suits, claims or actions arising out of the design, construction and installation of the Statue by the Foundation or its agents, employees, or contractors, including but not limited to, any injury or injuries to, or death or deaths, of persons or property that may occur, or that may be alleged to have occurred from any cause or causes whatsoever, while designing, constructing or installing the Statue (except where caused by the active negligence or willful misconduct of the Agency, its officers, employees or agents). The Foundation further agrees to defend any and all such actions, suits or claims not caused by the active negligence or willful misconduct of the Agency, its officers, employees or agents and pay all charges of attorneys and all other costs and expenses arising therefrom or incurred in connection therewith and if any judgment be rendered against the Agency or any other individuals enumerated above in any such action, the Agency, at its expense shall satisfy and discharge same.

10. INSURANCE. The Foundation shall maintain at all times during the term of this Agreement General Liability Insurance and Automobile Liability Insurance covering the Agency for any liability arising out of the Project. The policies shall be subject to a limit for each occurrence of a least One Million Dollars (\$1,000,000) naming as an additional insured, the Agency and its officers, employees and agents. Each Insurer shall agree that its policy is Primary Insurance and that it shall be liable for the full amount of any loss up to and including the total limit of liability without right of contribution from any other insurance covering the Agency. Inclusion of the Agency as additional insured shall not in any way affect their rights with respect to any claim, demand, suit, or judgment made, brought or recovered against the Foundation. Said policy shall protect the Agency and the Foundation in the same manner as though a

separate policy had been issued to each; but nothing in said policy shall operate to increase the Insurer's liability as set forth in the policy beyond the amount or amounts shown or to which the Insurer would be liable if only one interest had been named as an insured. At the request of the Agency, the Foundation shall deliver a Certificate of Insurance and endorsements which shall indicate compliance with the insurance requirements of this paragraph and shall stipulate that thirty (30) days advance written notice of cancellation or material change shall be given to the Agency.

11. ASSIGNMENT. Foundation shall not assign this Agreement, voluntarily or by operation of law, without the prior written consent of the Agency, which may be withheld in the Agency's sole discretion. In order for any permitted assignment to be valid, (i) such assignment shall be in writing, (ii) the assignee shall have agreed in such written assignment to assume all of the obligations of Foundation hereunder, (iii) such assignment shall be an assignment of all of Foundation's rights and obligations under this Agreement, (iv) a copy of the written assignment shall be delivered to the Agency immediately upon execution, and (v) the written assignment shall contain the name, address, telephone number, facsimile number and contact person for the assignee. Any attempted assignment in violation of the foregoing provision shall be void and a material default of this agreement. Absent a written Agreement between the parties hereto to the contrary, no assignment of any of the rights or obligations under this Agreement shall result in a novation or in any other manner release the Foundation from its obligations under this Agreement.

12. SEVERABILITY. If a court of competent jurisdiction finds any provision in this Agreement to be invalid, illegal, or otherwise unenforceable, that determination will not affect any other provision of this Agreement. The invalid provision will be severed from this Agreement and all remaining provisions will continue to be enforceable by its terms and of full force and effect.

13. MODIFICATION. This Agreement may only be modified by a written document signed by both parties.

14. NOTICES. All notices required to be given pursuant to this agreement shall be in writing to the parties as set forth below:

**MORGAN HILL  
REDEVELOPMENT AGENCY**

17555 Peak Avenue  
Morgan Hill, CA 95037  
Attention: Executive Director  
Copy to: Agency Secretary

**MORGAN HILL  
COMMUNITY FOUNDATION**

P.O. Box 1974  
Morgan Hill, CA 95038  
Attention: President

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the day and year referenced above.

**MORGAN HILL REDEVELOPMENT AGENCY**, a public body corporate and politic

**MORGAN HILL COMMUNITY FOUNDATION**, a California non-profit corporation

By: \_\_\_\_\_  
J. Edward Tewes

By: \_\_\_\_\_

Its: Executive Director

Its: Risk Manager

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

ATTEST:

APPROVED:

By: \_\_\_\_\_  
Agency Secretary

By: \_\_\_\_\_  
Risk Manager

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

APPROVED AS TO FORM:

JORGENSEN, SIEGEL, McCLURE &  
FLEGEL, LLP

By: \_\_\_\_\_  
Interim Agency General Counsel

Dated: \_\_\_\_\_

## **RESOLUTION NO.**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL CONSENTING TO THE ADVANCE OF FUNDS BY THE MORGAN HILL REDEVELOPMENT AGENCY TO MORGAN HILL COMMUNITY FOUNDATION FOR THE DESIGN AND CONSTRUCTION OF THE "WAITING FOR THE TRAIN" STATUE, ITS INSTALLATION AT THE TRAIN STATION AND ITS DEDICATION TO THE CITY UPON COMPLETION**

**WHEREAS**, in order to effectuate the provisions of the Community Development Plan ("Redevelopment Plan") for the Ojo de Agua Community Development Project ("Project Area"), originally adopted by City Ordinance No. 552 on June 3, 1981, and as amended and restated by the Amendment to the Community Development Plan for the Ojo de Agua Community Development Project adopted by City Ordinance No. 1429 N.S. on May 5, 1999, the Morgan Hill Redevelopment Agency ("Agency") proposes to enter into an Agreement Between Morgan Hill Redevelopment Agency and Morgan Hill Community Foundation Regarding "Waiting for the Train Statue" ("Agreement"); and

**WHEREAS**, on December 14, 2004, the Metropolitan Transportation Commission (MTC) approved the City of Morgan Hill's grant request in the amount of \$2,626,638 ("MTC Grant") to reconstruct and improve five blocks of Depot Street (between Main and 5<sup>th</sup> Street) encompassing the Morgan Hill Train Station in conformance with the new Morgan Hill Downtown Plan. The proposed reconstruction and improvement of Depot Street includes installing wide tree-lined sidewalks on the east side of the street, planting strips and sidewalks on the west, bicycle lanes on both sides of the street, pedestrian-scaled street lighting, special paving at street intersections that ties to the pedestrian walkways, narrow traffic lanes with median islands approaching the intersections, additional street landscaping, street furniture and public art ("Depot Street Project"). \$50,000 of the MTC Grant was specifically earmarked for public art; and

**WHEREAS**, On January 19, 2005 the Agency approved and committed the required \$341,314 in local matching funds for the Depot Street Project; and

**WHEREAS**, the Morgan Hill Community Foundation submitted a proposal to the City of Morgan Hill City Council ("City Council") for funding the design and construction of a life-size bronze sculpture entitled "Waiting for the Train," its installation at the Morgan Hill train station, owned by the Agency and located at 17300 Depot Street, and its dedication to the City of Morgan Hill upon completion ("Statue Project"); and

**WHEREAS**, the Statue Project constitutes a public improvement project as defined by California redevelopment law; and

**WHEREAS**, the estimated cost of the Statue Project is \$102,000 plus site preparation and installation costs. The Foundation requests the City to commit \$50,000 in Metropolitan Transportation Commission ("MTC") grant funds ("\$50,000 MTC Grant") and advance \$52,000 plus site preparation costs for the Statue Project; and

**WHEREAS**, the City Council considered the Foundation's proposal at its February 23, 2005 meeting and voted unanimously to approve the use of \$50,000 of the MTC grant and advance \$52,000 ("Advance") to the Foundation for the Statue Project; and

**WHEREAS**, due to City budget constraints and the impracticality of traditional methods of financing, it is desirable that the \$52,000 Advance approved by the City Council come from Redevelopment Agency funds; and

**WHEREAS**, pursuant to the requirements of Health and Safety Code Section 33445, the Agency has, by separate resolution, authorized the use of Agency funds for the payment of part of the cost of the design, development, installation and construction of the statue and has determined the following:

(1) The Statue Project will benefit the Project Area and the immediate neighborhood as it will provide social, economic and educational benefits to, and promote the general welfare of the residents, taxpayers of, and visitors to the Project Area. This in turn will encourage private-sector investment in the Project Area, thereby facilitating the redevelopment of the Project Area.

(2) The Advance for the creation and installation of the statute in the Project Area will assist in the elimination of one or more blighting conditions within the Project Area and is consistent with the Agency's implementation plan adopted pursuant to Section 33490. Specifically, the Agency has determined that the Project Area is an area in which the combination of conditions of blight is so prevalent and so substantial that there is a reduction of, or lack of, proper utilization of the area to such an extent that it constitutes a serious physical, social and economic burden on the community which cannot reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment.

(3) No other reasonable means of financing the creation and installation of the statue exist. Traditional methods of financing such as the issuance of general obligation bonds are unavailable as a practical matter because of the extraordinary majority voter approval requirements of two-thirds of the electorate. Assessment financing or special tax financing could overburden benefiting properties with assessments or special taxes and, in addition, special taxes require a two-thirds vote and assessments are subject to a majority protest.



**NOW, THEREFORE,** based on the evidence presented to the City Council and the Agency, including the written staff report and oral testimony on this matter the City Council does hereby find, determine, resolve and order as follows:

**Section 1.** All of the statements set forth in the Recitals above are hereby incorporated by reference and restated as true and correct.

**Section 2.** The statue will benefit the Project Area by providing a focal point of Depot Street and the immediate neighborhood. It will provide social, economic and educational benefits to, and promote the general welfare of the residents, taxpayers of and visitors to the Project Area. This In turn will encourage private-sector investment in the Project Area, thereby facilitating the redevelopment of the Project Area.

**Section 3.** The Advance for the creation and installation of the statute in the Project Area will assist in the elimination of one or more blighting conditions, within the Project Area and is consistent with the Agency's implementation plan adopted pursuant to Section 33490. Specifically, Depot Street currently contains areas without curb, gutter, and sidewalk. It also contains vacant and underutilized properties, properties which suffer from depreciated or stagnant property values and impaired investments, and deteriorated, aged and obsolete buildings. Such conditions tend to further deterioration and disuse because of the lack of incentive to landowners and their inability to improve, modernize or rehabilitate their property while the condition of the neighboring property remains unchanged. The reconstruction and beautification of Depot Street, which includes the Statue Project, will consist of installing wide tree-lined sidewalks, street landscaping, bicycle lanes, pedestrian walkways, median islands, and street furniture, will assist in the elimination of conditions of blight within the Project Area, which are caused by inadequate public improvements. This in turn will assist in eliminating factors which prevent or substantially hinder the economically viable use or capacity of buildings or lots and will encourage private-sector investment in the Project Area, thereby facilitating the redevelopment of the Project Area.

**Section 4.** No other reasonable means of financing the Statue Project is available to the City of Morgan Hill. Traditional methods of financing such as the issuance of general obligation bonds are unavailable as a practical matter because of the extraordinary majority voter approval requirements of two-thirds of the electorate. Assessment financing or special tax financing could overburden benefiting properties with assessments or special taxes and, in addition, special taxes require a two-thirds vote and assessments are subject to a majority protest.

**PASSED AND ADOPTED** by the City Council of Morgan Hill at a Regular Meeting held on the 1<sup>st</sup> Day of June, 2005 by the following vote.

**AYES:**           **COUNCIL MEMBERS:**  
**NOES:**          **COUNCIL MEMBERS:**  
**ABSTAIN:**    **COUNCIL MEMBERS:**  
**ABSENT:**      **COUNCIL MEMBERS:**

**🍷 CERTIFICATION 🍷**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA**, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on June 1, 2005.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

**DATE:** \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**

**CITY OF MORGAN HILL  
JOINT SPECIAL CITY COUNCIL  
AND SPECIAL REDEVELOPMENT AGENCY MEETING  
MINUTES – MAY 20, 2005**

**CALL TO ORDER**

Mayor Pro Tempore/Vice-Chairman Tate called the special meeting to order at 8:33 a.m.

**ROLL CALL ATTENDANCE**

Present: Council/Agency Members Carr, Grzan, Sellers, and Mayor Pro Tempore/Vice-Chairman Tate  
Absent: Mayor/Chairman Kennedy

**DECLARATION OF POSTING OF AGENDA**

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

**PUBLIC COMMENT**

Mayor Pro Tempore/Vice-Chairman Tate opened the floor to public comments for items not appearing on this agenda. No comments were offered.

**WORKSHOP:**

**1. STUDY SESSION REGARDING PROPOSED 2005-06 BUDGET**

City Manager/Executive Director Tewes presented opening comments regarding the proposed Fiscal Year 2005-06 Budget.

Budget Manager Thai addressed General Fund Revenues, including general fund tax revenues, vehicle licensing fee, history of sales tax revenues, and recreation revenues.

Finance Director Dilles addressed the Council's budget sustainability strategy and balancing the budget thru equaling expenses and revenues by 2008 with a 25% general fund reserves. He indicated that the Council has agreed to raise new revenues by this amount in the near future. He addressed General Fund projections without new revenues.

Council/Agency Member Sellers noted that in 05/06 and 06/07 expenditures and revenues increase. Dilles said that indoor recreation and outdoor sports complex attribute to increase in costs.

Mr. Dilles indicated that the numbers presented have assumptions. Assumes 3% increases in costs and 5% increase in sales tax and property taxes each year as economy impressed. Increase costs associated

with health care premiums. There is a 2% savings in salary based on unfilled vacancies. Assumptions assume that the Council approves increase in fees. No new employees to be hired except in recreation side. We will look for efficiencies but maintain existing staffing. This is assuming no expansion in fire services, city hall operations, or park maintenance. Another assumption is that the RDA cap will be increased. The Agency will take steps to increase these caps. It is assumed that the cap will be reached in FY 07/08. The City would receive additional property tax but would result in the elimination/reduction of RDA services or find ways to provide services. Once IRC opens it is assumed that it would be a break-even operation in third year of operation. Retirement benefits are a big factor and continue to rise. The City is not showing anything beyond 3% at this time.

Fire Chief Ben Lopes indicated that Battalion Chief Ken Kemna, assigned to the Morgan Hill area, was also in attendance. He said that this is the first time in 10 years of providing city services that he has been invited to make a budget presentation. During 10 years of serving city they have been providing quality service with low maintenance in staff. He said that there are 22 FTE in the City of Morgan Hill. Provide services through two fire stations, three fire persons per fire engine. He stated that the County Fire Department has an automated aid agreement with the California Department of Forestry (CDF) for services in Morgan Hill and Gilroy at no charge as the County provides reciprocal services to CDF. Issues for this budget year presentation are the fees mentioned. He addressed response times. He would agree to assist the City in review the fees and see if there are opportunities to raise fees for the City. Wants to be active partner in any new revenue stream. Contract extension will include funds for the replacement of fire replacement offices. An estimated \$425,000 is to be funded from impact fees. Budget for this year and upcoming year have been discussed with City staff in terms of how to deliver services to Morgan Hill, unincorporated areas, and Gilroy. This will be a significant challenge if you look at current budget. In 2003 LAFCO studied fire services and found fire deficient services. Will be third fire department in California to be fully accredited. The accreditation audit also identified additional need for fire service in south county regionally. He requested Council assistance with other elected officials as well as City of Gilroy.

City Manger Tewes identified what the fire budget will accomplish, including an implementation strategy to address the need for additional fire service in South County. He indicated that County Fire provides the City with monthly performance indicators.

Mayor Pro Tempore/Vice-chairman Tate opened the floor to public comment on the proposed Fiscal Year 2005-06 budget. No comments were offered.

The Council addressed expectations from the budget workshop as follows:

Mayor Pro Tempore/Vice-chairman Tate will consider department budget presentations and will request that staff respond to questions he may have.

Council/Agency Member Grzan said that this is his first time through the budget process and that he may have more questions than the other council members in order to verify his assumptions. He would be seeking information from staff in order to be able to explain to citizens and the community conversations about the budget, which include statistics, numbers, and indicators.

Council/Agency Member Sellers said that he would be looking at how the proposed budget will provide services. He noted that the City is increasing services and programming in the recreational services side. He said that he would be keeping a close eye on public safety with respect to police and fire services. He would like to know what the \$1.2 million will address in terms of services.

Council/Agency Member Carr would like to know how the budget addresses Council goals.

#### CITY CLERK'S OFFICE

Council Services & Records Manager Torrez presented the City Council, Community Promotions, Council Services and Records Management, and Elections budgets. She indicated that City Clerk staff assists with the coordination of meetings, recruitment process to fill vacancies on boards and commission and acts as the liaison between citizens and their elected officials. The Fiscal Year 2005-06 budget proposes to continue coordination of local and regional meetings. She stated that the Council budget is lean and includes the following: \$25,000 for a follow-up community survey; amendment to the terms of office for boards, commissions and committees, and funding for membership to ABAG, League of California Cities, and Cities Association.

Ms. Torrez addressed the Community Promotions budget. She indicated that City Clerk staff produced proclamations, certificates of recognition, facilitated requests for funding before the City Council by non-profit organizations. She stated that the Fiscal Year Budget includes \$25,000 for centennial activities from a one time source (not the general fund), but does not include funding for sponsorship for Independence Day Inc. or other non profit organizations.

Council/Agency Member Sellers inquired whether staff has notified community organizations that no funding assistance is proposed in the Fiscal Year 2005-06 budget. If not, he recommended that they be advised as soon as possible.

Ms. Torrez addressed the Council Services & Records Management budget. She stated that historical documents continue to be scanned; staff coordinated the Patriot Day event; anticipates the processing over 1,100 passport applications (will generate over \$30,000 in revenue this fiscal year). Next year's budget proposes to enhance passport services, making City Hall a one stop center. Passport revenue is projected to be at \$22,000 next fiscal year. However, she noted that the Post Office has also become a passport acceptance facility. The Fiscal Year 2005-06 budget will maintain the current staffing levels. The staffing level will assist in meeting the Council/City goals and objectives.

Ms. Torrez addressed the elections budget, indicating that election costs continue to increase. The Fiscal Year 2004-05 budget facilitated a consolidated election to elect a Mayor, 2 Council Members, City Treasurer, City Clerk and the passage of Measure C. The Fiscal Year 2005-06 budget does not include funding for a special election. Should the Council or citizens of Morgan Hill qualify a ballot measure in Fiscal Year 2005-06, the Council will need to allocate funding for the special election from the General Fund reserve. She indicated that staff will continue to notify and track campaign disclosures forms from committees as well as Conflict of Interest forms for designated filers.

In response to Council/Agency Member Sellers question, Ms. Torrez did not believe that the City would be required to contribute toward a special election should the Governor call for a special election. She indicated that she would confirm whether the City would be burdened with the costs associated with a statewide special election.

Council/Agency Member Carr stated that Independence Day Inc. (IDI) may have an expectation that there will be no funding for their programming next year.

Council/Agency Member Sellers said that it needs to be made clear to non-profit organizations that there is no funding. Further, that it is important for the five elected officials to stay firm on the no funding allocation decision.

#### CITY ATTORNEY'S OFFICE

City Manager Tewes addressed the City Attorney's budgets. He said that the budget proposes funding for a full time City attorney starting October 1, 2005. He noted that the Council has not made a decision regarding this issue. He addressed the cases resolved and cases underway in the City Attorney's office. He clarified that a reduction in services stems from less office hours with a contract city attorney versus a full time city attorney. He said that maintaining this level of service will result in cost savings. Staff will need to evaluate whether this is a sufficient level of service.

#### CITY MANAGER'S OFFICE

City Manager Tewes addressed the City Manager's budget, indicating that it is a status quo budget. He stated that half of his salary is paid with Redevelopment Agency Funds (RDA) and should the RDA not be extended, half of his salary from RDA would be impacted. He said that administrative services were evaluated and the results showed that there would be reduced costs associated with an administrative services department. However, this model would adversely affect employees. He stated that a lot of time and energy was devoted by a group of staff members and that it resulted in frustration. He informed the Council that this study is still available. He addressed the communication's budget, indicating that \$25,000 is being allocated for a communications marketing campaign on the level of city services desired by the community.

#### HUMAN RESOURCES

Human Resources Director Mary Kaye stated that the Human Resources office is operating with 1.5 less staff members. Staff has conducted 20 regular recruitments and have 9 open recruitments to fill. She said that 105 temporary/seasonal workers were hired this fiscal year for the aquatics center. She addressed the services to be provided next fiscal year and the assistance to be provided to staff. She said that the current budget provided professional development of human resource staff members. Next year's budget will provide additional focus to employee development and succession planning. Focus will also be given to enhanced recognition, including enhanced benefits for employees (getting more for dollars). She addressed the unemployment and workers compensation budget

## FINANCE DEPARTMENT

Finance Director Dilles indicated that the City continues to receive financial awards. Finance staff conducted an internal customer service survey with a goal to improve services. Three bonds were issued: police facility, water capital project, and refinanced Madrone Assessment bonds. He stated that the City is taking advantage of low interest rates. The City has also upgraded its financial system and updated the administrative purchasing procedures.

Mayor Pro Tempore/Vice-chairman Tate recommended that the financial system upgrade be used as a marketing tool to communicate to the public the systems implemented that address efficiencies and responsiveness to customers.

Mr. Dilles stated that next fiscal year, the Finance department proposes to conduct a banking services RFP; to work with the Financial Policy Committee to develop policy recommendations; to conduct an external customer survey; to conduct a fixed asset inventory; to conduct a cost allocation study; and to work with the Financial Policy Committee to engage in a year long community conversation about revenues. He indicated that the budget includes: \$30,000 for a cost allocation study, and will provide professional development needs, funding for the replacement of computers, implementation of a new financial system, and provide for a check endorser.

Council/Agency Member Sellers inquired whether the GASB (Governmental Accounting Standards Board) would provide information that would compare Morgan Hill with other cities (e.g., roads, water, sewer lines, recreation services, etc.). He felt that it would be easier to explain issues if the City is able to compare itself with other cities. This information may be helpful with next year's communication with the community.

Mr. Dilles indicated that the State produces reports that provide statement information, but it is old information once it is released.

## RECREATION AND COMMUNITY SERVICES DIVISION

Recreation and Community Services Manager Spier addressed the mission of the Recreation and Community Services division. She addressed the following accomplishments: completed the outdoor sports complex master plan and Phase I Plan; began the design phase for library building project; established division monthly reports. Accomplishments for the Community & Cultural Center (CCC): 10% increase in rentals; implemented an art exhibit series, developed a playhouse marketing plan; introduced new classes; hosted annual Art a la Cart; installed a Rose Garden; and implemented a customer services survey. She addressed the requested budget for the CCC and anticipated revenue. She addressed the CCC operational changes (e.g., decentralization of volunteer services program and moved facilities maintenance specialist position). The Fiscal Year 2005/06 CCC goals include increased mid-week facility rentals by 10%; increase playhouse rentals by 15%; implement focused marketing plan to increase revenues; and increase number of classes offered to meet minimum enrollment by 50%.

Ms. Spier addressed the Fiscal year 2004/05 aquatics center accomplishments (e.g., grand opening held June 12, 2005; exceeded goal of 55,000 daily paid admission; hired and trained over 100 local youth; implemented swim lessons, added fitness classes, provided for recreational swim, held competitive swim and special events; initiated food concessions and retail operations; provided 621 low income youth with transportation and paid admission through CDBG funding; hosted 5 swim competitions; hosted Disney's Swim with the stars, and submitted application for Helen Putnam Award for excellence). Goals are to develop a strategy that would generate revenue during the off season and develop a policy that addresses year round use of the aquatics center. She indicated that staff is considering a master training center. She stated that a report to the Council will be presented by July 15 on how the aquatics center is doing and whether it can remain operational off season.

Aquatics Manager Himelson addressed improvements occurring at the aquatics center.

Mayor Pro Tempore/Vice-chairman Tate noted that the budget states that aquatics center will be \$135,000 short. He inquired whether a plan would be presented that shows how the aquatics center will break even or whether it needs to close during the off season.

Ms. Spier stated that by July 15, 2005, staff will advise the Council whether the aquatics center should remain open or close during the off season if budget (revenue) target is not achieved.

Ms. Spier addressed funding for the indoor recreation center (IRC). She stated that IRC staff will be hired in July. Staff will be working with the YMCA and making a proposal on a City/YMCA partnership. This report will be presented to the Council before the next budget year.

City Manager Tewes noted that the nutritional issue is the County's responsibility and that it was not built into the 5 year plan.

It was stated that some of the programs at other buildings will have to be moved and covered at the IRC, such as pool maintenance.

Mayor Pro Tempore/Vice-chairman Tate asked how we justify to the public what they are getting for the dollars invested.

City Manager Tewes stated that the budget is focused more on discretionary revenues rather than user fees. The mix has changed, but wants to show the recreational services in Morgan Hill will require \$1 million discretionary dollars, which is about 5%.

Ms. Spier stated that we provide many free recreational services to the community, such as Art ala Carte. Aquatics center rates are lower than costs, as they are not charging 100% recovery. We have dropped after school program as budget has gotten tighter. IRC has some challenges, such as the senior wing and youth wing providing several free hours. The fitness side of the IRC has to cover the costs of other wings.



Council/Agency Member Grzan suggested possibly increasing mid-week rentals. Also asked what percentage of classes offered are cancelled.

Ms. Spier said is has dropped from 60-70 percent to 30 percent. This includes the special activities, and includes the playhouse too. Staff is working to come up with a tool to gauge this.

Council/Agency Member Grzan asked if they know where the losses occurred at the aquatics center.

Aquatics Center Director Himelson stated that the loss was about \$100,000. The original projections were for a loss of about \$35,000 per month if they closed the pools, plus the cost to reopen the pools. It was believed that it was better to stay open and try to generate income during those months rather than closing the facility and having no chance of recovering the costs.

Council/Agency Member Grzan stated that he wanted to make sure that the Council understood that there are costs generated whether the facility is operating or not, and that the notion that recreation programs can be 100 percent cost recovery is not possible. He would like to see a policy adopted that is more practical of what the General Fund contribution will be to sustain these programs rather than operating in a manner that is not realistic.

Mayor Pro Tempore/Vice-chairman Tate stated that a pledge was made to the public to make these operations cost recovery, and that this is a goal to be sought.

Council/Agency Member Grzan stated this is not realistic, and that is needs to be re-evaluated based on the loss of \$274, 000 last year, when he thought they were supposed to break even last summer.

City Manager Tewes stated that at this time last year they did not yet know what the operations of the aquatics center would generate because it was the first year. The city accepted the offer of the Morgan Hill Aquatics Foundation to lease the facility in the off-season to generate revenue, but this did not work out due to lack of sufficient resources and the city had to reassume management during the off season. Last year's plan for the off season was brought before the Council in October, but this year the plan is to be brought in July so that it can be in place in time for next winter's season. The city is accountable to achieve the goal, but we want to be realistic in the presentation. He also feels that we will be able to generate more revenue next year.

Council/Agency Member Grzan also expressed his concern that it is unlikely that the IRC will be able to draw enough population from Morgan Hill and the surrounding cities to make it a viable operation. He wants to see the goals re-evaluated. He is concerned that the fees may become prohibitive for local residents, and that it would not be right to keep local residents from using the recreational resources. The ultimate vision would be to go to a subsidy level at some point that will allow the majority of residents to use the facilities, with subsidies coming from a new revenue base to support recreational services. He stated that if the recreation deficit could be solved, it would help the overall deficit of the city as well.

Council/Agency Member Sellers stated that he felt they may have put themselves in a box declaring that these facilities would be able to pay for themselves, and the Council needs to communicate this to the community so they will know there is a choice between paying a higher price and subsidizing the costs. We also need to have better management of the facilities to get more cost recovery.

## POLICE DEPARTMENT

Chief Cumming reviewed the accomplishments and goals of the police department as outlined in the budget presentation. Reported that they have been able to free up more officers to do policing work. The department has a very thin level of police staffing for a city of this size. Property is being handled very well, and is now one of the top ten property room operations in the state. This is possible because of the new building. They have hired a part time Emergency Office Coordinator ½ time for this year to study needs, and may go to full time in the future. Reported they have hired someone trained to shoot tranquilizing darts into animals such as mountain lions, so they won't have to kill the animals.

He stated his goal to reorganize the department is intended to shore up areas where there are deficiencies and create opportunities for staff growth. He has added a Sergeant to the Special Operations Division because this is a critical area of the department that manages a variety of persons and issues, and this level of supervision is very common in other police departments. The current supervisor is a corporal, and this limits the ability to manage other staff members of the same rank. He also stated the need for a supervisory position over the dispatch unit. The new organization he is proposing will improve their ability to provide more sensible policing. The crime suppression unit is intended to get criminals off the street. They ran an experimental test and found that there were no burglaries during that time period. They are also stepping up traffic enforcement to slow down traffic, and he intends to improve the reserve officer program to get more manpower on the street at a lower cost.

He stated that the most visible program to be eliminated will be the canine program, but felt it was better to lose that than to lose an employee. This will save about \$26, 000. He has also reduced the budgeted amount for training and is cutting back on fire arms training in order to reduce overtime costs since this is the only time that is available for such training at this time.

Council/Agency Member Grzan asked if consideration has ever been given to centralized dispatch, since in his experience this can result in significant savings.

City Manager Tewes asked that the investigation of the possibility of joining with the County be added to the Workplan for next year. He stated that it was his understanding from Chief Lopes that their attempt at this type of consolidation of dispatch services has been very dissatisfactory for them.

Police Chief Cumming stated that he has seen both sides of this issue, and sometimes it works and sometimes it doesn't. He believes the citizens of Morgan Hill will not be satisfied with such an arrangement; and noted that when you join with others you lose the ability to meet the needs of your particular city.

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Council/Agency Member Grzan stated that he felt it works better because of the pooling of resources, and feels that it would be worthwhile to look at this option.

Ms. Patti Yinger, current supervisor of the dispatchers, stated that our dispatchers handle more than normal dispatcher in that they take reports that aid the community and relieve the officers of this work. She has studied this and feels it would actually cost the city more to go with the county.

Council/Agency Member Sellers asked if the PD would be amenable to having an organization such as the Community Law Enforcement Foundation assist the police department with support.

Chief Cumming stated that he is open to all ways of funding his staff and department to make the city as safe as it can be.

In response to a question by Council/Agency Member Carr, the Chief stated that MHUSD is helping to fund the position of the School Resource Officer at \$57,000.

Council/Agency Member Carr stated that he appreciates the PD and all they do for the community, and he likes the idea of bringing the PD closer to the community. He asked if that still part of the plan since they are eliminating the canine program which brings officers closer to the community.

Chief Cumming stated he does not like cutting this program since it is good public relations and does make the community safer. It also provides a way to recruit good employees who want to do that type of work.

In response to a question about overtime by Council/Agency Member Grzan, the Chief stated that it is very high because the staffing levels are so thin. All training and special details are done in overtime, and recently there have been several officers out for family leave, and their positions must be filled by overtime hours.

Council/Agency Member Grzan asked if the addition of more full time staff would reduce the costs because of the elimination of so much overtime.

The chief stated that it would relieve some, but not all the overtime. Some is due to officers being required to attend trials. The overtime does not seem to be affecting moral, but the area of dispatch may be an area where there is some concern.

City Manager Tewes reported that one of the areas of concern expressed was the increasing workload and the lowering of staff levels city wide.

## COMMUNITY DEVELOPMENT

Community Development Director Molloy Previsich presented the budget for her department.

Council/Agency Member Sellers asked if automated permit tracking has been analyzed to see if it would alleviate some of the costs of adding staff.

Community Development Director Molloy Previsich stated that she feels it might be better to wait a couple of years as the technology will be better.

Council/Agency Member Tate asked about island annexations that are planned and whether they include areas exempted from Measure C.

Community Development Director Molloy Previsich stated that Holiday Lake Estates is not identified as an island yet, and is not in the urban service area. Next month a request is being made to LAFCO to include it in the urban service area; and at that point, it could be called an urban island and would qualify for this streamlined procedure without an election vote. LAFCO strongly recommends that cities move forward to get these islands annexed during this brief window of opportunity. Residents will be contacted and informed of the advantages of being annexed.

## **PUBLIC WORKS**

Director of Public Works Ashcraft reported that staffing is still 57.5 in PW, which is the same as last year. There is only about \$1 million dollar increase in the PW budget; mainly in the area of water and sewer, and mainly because of perchlorate, pump tax and energy cost increases.

He reported that there has been very strong residential development in town. There was a very active CIP last year and this will continue in the coming year. The IRC is under construction, and footings will be dug soon. This year parks were cut to meet the budget requirement by eliminating broad leaf control and reducing turf renovation in parks. Street rehabilitation funding is the biggest obstacle to be overcome in the budget.

He stated that the good news is that water demand vs. water supply is improved. They are adding some new wells this year so should not have a water shortage or a need for water conservation this summer.

## **BAHS**

Director of Business Assistance and Housing Services Toy stated that next year will be a watershed year to either keep the RDA going or ramp down activities.

Council/Agency Member Sellers stated that the Downtown will need about \$100,000 for the transition, which can come out of the \$700,000.

Director Toy stated this would not be a problem; they are planning on more funding for them.

## **CAPITAL IMPROVEMENT PROGRAM**

Assistant Director of Public Works Bjarke presented the CIP budget.

Regarding the Fire District, Council/Agency Member Sellers questioned \$1100.00 per square foot cost.

Assistant Director of Public Works Bjarke reviewed the sewer and water projects, street projects, and downtown traffic calming projects planned for next year's budget.

Council/Agency Member Sellers stated his concern about the traffic flow and signal timing of the east/west flow on Cochrane and north/south flow on Butterfield.

Mr. Bjarke stated that the downtown calming 1<sup>st</sup> phase has been completed by painting the lanes narrower. They have also planted trees on 4<sup>th</sup> street to create a canopy effect, and the last item will be the installation of rubberized speed cushions in about two weeks on the approach to Third Street. Due to funding constraints, Third Street was chosen to have these installed first since the highest speeds were recorded at that intersection. They are also studying a left turn lane for Monterey Road and Main Avenue intersection to make it easier for drivers to access Butterfield Boulevard and relieve some of the downtown traffic flow.

Council/Agency Member Sellers asked that the downtown association be notified and kept apprised of this process.

Mr. Bjarke reported on the Butterfield extension targeted for 2009-2010; the Tennant Avenue widening which is hoped to be constructed this summer and fall; the establishment of an undergrounding utilities district on Monterey Road; and the backlog of pavement rehabilitation projects. He stated that he had provided them with more detail on the current \$11 million in deferred needs. They have been using some RDA funds, but those are no longer available to them. Proposition 42 is supposed to give sales tax from gasoline to fund these projects, but the state has been taking these funds. They hope to recover \$151,000 from the state in the coming year. Their current available amount is only \$100,000 annually; and they would need \$2.8 million to keep up with the maintenance needs. The backlog has been growing for years; the streets will continue to deteriorate and the repairs would become more costly so the quicker they can be repaired the better.

City Manager Tewes stated that the transfer of General Fund monies into street maintenance was stopped three years ago.

Director of Public Works Ashcraft stated that even though we are behind in our maintenance, we are still ranked in the top 10 percent of cities in the bay area region for pavement maintenance because of the ability to use the RDA monies. Other cities are in much worse condition.

Continuing, Mr. Bjarke stated that in lieu fees are collected from smaller developers who cannot afford the cost of undergrounding of utilities.

Council/Agency Member Sellers asked staff to look into the undergrounding of utilities in front of the Morgan Hill house as improvements are made to that property.

Mr. Struve stated that he would prepare an estimate of the cost to do that job.

## WATER

Assistant Director of Public Works Bjarke reported that there would be one more new well on line this fiscal year; that the new water reservoir at the Boys Ranch is under construction at this time; currently work being done on the booster pump at Jackson Oak Station with Woodland Acres and Glen Ayre on schedule for the future; water wells are being rehabilitated for more reliability and efficiency as they age; water mains are being replaced; and Polybutylene service replacement is being slowly replaced with copper service lines. He also reported that the CIP has been reviewed and commented upon by the Parks and Recreation Commission and the Planning Commission.

Council/Agency Member Grzan recommended that there be a linear park built from Little Llagas Creek to Watsonville or even further, and wanted to know if there were resources to study and identify property to be obtained to allow this to be done. It would give three schools close to that area access to the IRC. He strongly advocated that this be studied.

City Manager Tewes reported that this is part of the PL 566 project and they are advocating with congress to fund. The plan is in place but the resources are not available.

Public Works Director Ashcraft stated that he would include this in the Trails Master Plan Review.

Council/Agency Member Sellers commented that since it seems unlikely that PL 566 will occur in our lifetime, and asked if there are any other options open to provide relief to citizens in the cost of flood insurance.

City Manager Tewes stated that this is usually something done by an assessment district to get bonds issued. The water district would be the lead agency, but both the city and the water district want to study other options. He also suggested that a better mapping of the downtown might also reduce the flood insurance rates.

Council/Agency Member Sellers asked if this could be presented to the community as an option to pay for the project or pay for the flood insurance as a trade off to get the project funded.

Director Ashcraft stated that in order to prevent downstream problems, we have to work in cooperation with the water district in building the project, but mapping can be redone and would help with the insurance charges. He will be meeting next week with the SCVWD and will discuss this then.

Council/Agency Member Grzan stated that the longer we don't do anything with the development of a linear park, the more development will occur and we will lose the possibility of being able to build such a park. He would advise acquiring the easements now rather than later, because the more we plan now will be better for the community.

This concluded the discussion of the CIP budget. There was a 5 minute break taken before the discussion of the work plans.

#### COMMITTEE & COMMISSION WORKPLANS

City Manager Tewes stated that the work plans are being presented to Council to obtain their input before formal action is taken.

Mayor Pro Tempore/Vice-Chair Tate asked if they would do a general review of the Planning Commission now or schedule something with the Planning Commission for a later date. The other work plans will be reviewed by the Public Safety and Community Services Committee as per Council direction from May 18 City Council meeting.

Council/Agency Member Sellers stated that the Planning Commission has requested a meeting with the Council on the downtown, and he would request that Council hold their discussion with them on this issue at that time.

Council/Agency Member Carr asked for clarification on what the staff needed from the Council today.

City Manager Tewes stated that they needed the Council to review and submit any questions they had on the work plans; and when the budget is adopted that the finalized plans be endorsed so the various commissions, boards and committees will know what they are to be doing in the coming year.

Mayor Pro Tempore/Vice-Chair Tate and Council/Agency Member Carr stated they would review them before the June 22 Council meeting.

Council/Agency Member Grzan asked that the Trails Master plan be included in the BTAC work plan; and the development along creeks and streams be part of the Planning Commission's work plan.

City Manager Tewes was pleased to report that the SCVWD is already reserving setbacks along creeks to keep development away from creeks on a county wide basis.

Council/Agency Member Grzan asked if the Library, Culture and Arts Commission has anything in their work plan regarding culture and arts. He also asked that the local art advocates concerns be included in any discussion of their work plan.

Mayor Pro Tempore/Vice-Chair Tate stated that the PS&CS will be defining what that will be for them to provide direction and their concerns will be included in that discussion.

Mayor Pro Tempore/Vice-Chair Tate stated that the Council would definitely want a meeting scheduled with the Planning Commission on the work plan and the downtown plan, and asked the City Clerk to coordinate the schedules and set this meeting. When asked for a preference on time to meet, he stated that early evening would be best.

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City Manager Tewes stated he would have the City Clerk contact Council about possible meeting dates with the Planning Commission to discuss the work plan and the downtown plan.

Mayor Pro Tempore/Vice-Chair Tate and other Council Members thanked the staff for the excellent job done today in the work shop.

## REVIEW OF BUDGET HEARING SCHEDULE

City Manager Tewes reviewed the schedule for the council's benefit, and asked if they want to review the budget policies and sustainable budget strategy.

Council/Agency Member Grzan asked what level of funds was being set aside this year to support the Chamber of Commerce. He stated that since IDI is receiving no funding next year, maybe some of these funds could be switched to the support of IDI.

City Manager Tewes stated that economic development funds from the RDA are going to the support of the Chamber. To use these funds to support IDI would be extending the definition of economic development.

Mayor Pro Tempore/Vice-Chair Tate reported that the Chamber's work plan is reviewed each year to assure they are spending dollars in a manner the Council wishes to support. The Council has an opportunity to fund or not fund. The Economic Development Committee helps to guide them in their use of city funds.

Council/Agency Member Grzan stated that he could not see any economic benefit to funding the Chamber of Commerce, but can see some direct benefits if we restore the \$25,000 to the Centennial committee or IDI. He would like the Council to consider changing this to reduce the amount contracted with the Chamber and put those funds into the Community Promotions Budget.

City Manager Tewes stated he could place this as an item to discuss at the budget hearing.

Mayor Pro Tempore/Vice-Chair Tate stated he is not comfortable with doing this in the budget hearing, but he is willing to look at it the next time the Chamber's contract comes before them for consideration.

City Manager Tewes stated that the Chamber will probably appear before the Council at the public hearing on the budget.

Council/Agency Member Grzan stated that the staff did an outstanding job with the presentation today. It has had a significant impact on him to see all that the city does, and it has been a wonderful learning opportunity for him. He thanked the staff for doing a great job.

Council/Agency Member Carr noted that the Mayor had sent his comments on the budget to the Council and wanted to make sure that the staff had also received them.



City Manager Tewes responded that they had been received, but the staff had not had time to review them. The Mayor had requested that they be made available for the work shop today.

Council/Agency Member Grzan stated that all the issues were addressed today already.

Council/Agency Member Carr stated that the one that catches his eye is the cutting off of after school programs if they are not willing to take the funding from our reserves. He does not suggest that dollars be changed around today, but is interested in talking more about this area in future discussions. He suggested that the Public Safety & Community Services Committee discuss how to find funding for these programs. He requested that a place holder be on these funds in case they find a good place or program to use the funds.

Council/Agency Member Grzan asked about the ongoing cost for the IRC that are not in this year's budget but will be in next year's budget, and the negotiations with the YMCA.

Assistant to the City Manager Dile stated that this will be coming up in August for discussion.

#### **FUTURE COUNCIL-INITIATED AGENDA ITEMS**

No items were identified.

#### **ADJOURNMENT**

There being no further business, Mayor Pro Tempore/Vice-Chairman Tate adjourned the meeting at 2:28 p.m.

#### **MINUTES RECORDED AND PREPARED BY:**

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**IRMA TORREZ, CITY CLERK/AGENCY SECRETARY**

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**MOIRA MALONE, DEPUTY CITY CLERK/DEPUTY AGENCY SECRETARY**

**CITY OF MORGAN HILL  
JOINT SPECIAL AND REGULAR REDEVELOPMENT  
AND SPECIAL CITY COUNCIL MEETING  
MINUTES – MAY 25, 2005**

**CALL TO ORDER**

Vice-Chairman/Mayor Pro Tempore Tate called the special meeting to order at 6:01 p.m.

**ROLL CALL ATTENDANCE**

Present: Vice-Chairman/Mayor Pro Tempore Tate; Agency/Council Members Carr, Grzan

Absent: Chairperson/Mayor Kennedy

Arriving Late: Agency/Council Member Sellers (arrived at 6:50 p.m., but did not participate in Closed Session meeting)

**DECLARATION OF POSTING OF AGENDA**

Deputy Agency Secretary/Deputy City Clerk Malone certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

***Redevelopment Agency and City Council Action***

**CLOSED SESSIONS:**

**1.**

**CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

Authority: Government Code Sections 54956.9(b) & (c)

Number of Potential Cases: 2

**2.**

**CONFERENCE WITH LABOR NEGOTIATOR:**

Authority: Government Code Section 54957.6

Agency Negotiators: City Manager; Human Resources Director

Employee Organization: AFSCME Local 101  
Morgan Hill Community Service Officers Association

**3.**

**CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION:**

Authority: Pursuant to Government Code 54956.9(a)

Case Name: City of Morgan Hill v. Howard Vierra

Case Number: Santa Clara County Superior Court, Case No. 1-04-CV-026723

### **CLOSED SESSION ANNOUNCEMENT**

Interim City Attorney/Agency Counsel Dan Siegel announced the discussion at the 6:00 closed session would be regarding Closed Session Item 3; and that he would not be present for that discussion, but Attorney Robert Lanzone would be serving as Counsel for the City on this matter.

### **OPPORTUNITY FOR PUBLIC COMMENT**

Vice-Chairman/Mayor Pro Tempore Tate opened the Closed Session items to public comment. No comments being offered, the public comment was closed.

### **ADJOURN TO CLOSED SESSION**

Vice-Chairman/Mayor Pro Tempore Tate adjourned the meeting to Closed Session at 6:02 p.m.

### **RECONVENE**

Vice-Chairman/Mayor Pro Tempore Tate reconvened the meeting at 7:01 p.m.

### **CLOSED SESSION ANNOUNCEMENT**

Vice-Chairman/Mayor Pro Tempore Tate announced that direction was given to Council, but there were no reportable actions. Closed Sessions will continue after the regular meeting to discuss Items 1 and 2 listed as Closed Sessions on the agenda.

### **SILENT INVOCATION**

### **PLEDGE OF ALLEGIANCE**

Vice-Chairman/Mayor Pro Tempore Tate led the Pledge of Allegiance.

### **PROCLAMATIONS**

Vice-Chairman/Mayor Pro Tempore Tate declared the month of May 2005 as Stroke Awareness Month and presented a proclamation to Clara Roa, the Program Director for the Peninsula Stroke Association.

### **RECOGNITIONS**

Vice-Chairman/Mayor Pro Tempore Tate announced that the Government Finance Officers Association (GFOA) has presented the Distinguished Budget Presentation Award for the fiscal year 2004-2005 operating budget to the City of Morgan Hill Finance Department. He explained that this award is the highest form of recognition in governmental budgeting and represents a significant achievement by the City, and presented the plaque from the GFOA to Budget Manager Chu Thai.

Mr. Thai stated that the City of Morgan Hill has received this award for the 2<sup>nd</sup> year in a row. It is a very prestigious honor, and he commended all departments for their work on the budget document to make it such a success.

### **CITY COUNCIL SUBCOMMITTEE REPORT**

None.

### **OTHER REPORTS**

None.

### **PUBLIC COMMENT**

Vice-Chairman/Mayor Pro Tempore Tate opened the floor to public comments for items not appearing on this evening's agenda. No comments were offered.

## ***Redevelopment Agency Action***

### **CONSENT CALENDAR:**

**Action:**        *On a motion by Agency Member Carr and seconded by Agency Member Sellers, the Agency Board unanimously (4-0, with Kennedy absent) **Approved** Consent Calendar Item 1, as follows:*

1.     **APRIL 2005 REDEVELOPMENT AGENCY FINANCE & INVESTMENT REPORT**  
**Action:** **Accepted** and **Filed** Report.

## ***City Council Action***

### **CONSENT CALENDAR:**

**Action:**        *On a motion by Council Member Carr and seconded by Council Member Sellers, the City Council unanimously (4-0, with Kennedy absent) **Approved** Consent Calendar Items 2-5, as follows:*

2.     **APRIL 2005 CITY OF MORGAN HILL FINANCE & INVESTMENT REPORT**  
**Action:** **Accepted** and **Filed** Report.

3. **ACCEPTANCE OF THE DUNNE AVENUE/HIGHWAY 101 INTERCHANGE IMPROVEMENT PROJECT LANDSCAPING**

**Action:** 1) **Accepted** as Complete the Landscaping for the Dunne Avenue/Highway 101 Interchange Improvement Project, Including the Three-Year Landscape Maintenance Period; and 2) **Directed** the City Clerk to File the Notice of Completion with the County Recorder's Office.

4. **TURF REPLACEMENT REBATE PROGRAM**

**Action:** **Authorized** the City Manager to Execute the Memorandum of Understanding (MOU) with the Santa Clara Valley Water District, Subject to Review and Approval by the City Attorney.

5. **VECTOR CONTROL DISTRICT BALLOTING**

**Action:** **Authorized** the City Manager to Vote "Yes" on the Vector Control District Mail-In Ballot.

***Redevelopment Agency and City Council Action***

**CONSENT CALENDAR:**

**Action:** On a motion by Agency/Council Member Carr and seconded by Agency/Council Member Sellers, the Agency Board/City Council unanimously (4-0, with Kennedy absent) **Approved** Consent Calendar Item 6, as follows:

6. **APPROVED MINUTES OF SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING OF MAY 18, 2005**

***City Council Action***

**OTHER BUSINESS:**

7. **OUTDOOR SPORTS COMPLEX PRIVATE-PUBLIC PARTNERSHIP PROPOSAL**

Recreation and Community Services Division Manager Spier presented the staff report, and distributed and reviewed a staff comparison chart of the coliseum group proposal. (This has been scanned as a part of the agenda packet for this meeting) In response to Council questions, she stated that the city is asking for contributions from the local groups of \$240,000. These groups are currently working on forming an alliance. This amount is based on conversations with the operators of the soccer fields, and the city contracting the maintenance of the fields.

Mayor Pro Tempore Tate opened the public comment.

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Mr. Doug Payne of the Coliseum Recreation Group (CRG) provided a presentation to the Council on what they have been working toward in their vision of a master complex plan. (For more detailed reference, the full presentation has been scanned as part of the agenda packet for this meeting)

He stated that their surveys have clearly shown that this project is seen as a value by the community responses. They have the goal of making Morgan Hill a place for regional games, which will add to economic development of the city.

He stated that he believes that the staff report is sound, but is constrained by the parameters set by the Council. The complexity of the RFP defined the CRG response and thought process, and they have made adjustments to their business plan to bring it into alignment with the goals of the Parks and Recreation Commission and the Council. Their goal is to make the Outdoor Sports Complex (OSC) a facility with a more regional draw of clients to avoid competition with the Indoor Recreation Center (IRC) which is intended to be a facility for local residents. He believes the CRG proposal provides a complete solution that will cover both the profit and non-profit aspects of the OSC. They have made accommodations to make the facility available and affordable to Morgan Hill residents. He encouraged the Council not to lose sight of the long term goal of the master plan, by focusing too much on the short term.

Mr. Payne stated that he is committed to making Morgan Hill a sports and recreation destination in Silicon Valley. He feels they have met and exceeded expectations of what is their interpretation of the Council's vision to make Morgan Hill an emerging recreation destination in northern California; and have built a business model that will allow for future expansion in the complex and creation of a lasting legacy for the community.

He stated he is here this evening to seek the guidance of the Council about what the different groups want and how committed they are to getting there. His key questions are what are the criteria to enter into the Exclusive Right to Negotiate (ERN) phase with specification of what the dollar amounts are, and what is the ultimate goal and vision, both short term and long term. They are committed to working toward the long term vision, while making the short term happen.

Mr. Jeff Bernardini, Parks and Recreation Commissioner, reported to the Council that after a long period of discussion between the all of the local sports groups, they have reached a point where they are willing to look beyond their own particular group's interests, and work together for the best interests of the community. One of the concerns of the PRC was the potential of the OSC competing with the IRC, but they now feel that those concerns have been addressed, and the CRG proposal would not be in competition with the IRC. He has concluded that comparing the two facilities would be like trying to compare apples and oranges, since they serve two different types of athletes. The CRG is serving the high end, serious athlete, while the IRC serves the community based recreational uses.

He also addressed the formation of the Morgan Hill Youth Sports Alliance to help maintain and operate the sports field portion of the OSC facility. There are 24 youth sports groups (his list has been scanned as part of this agenda packet). They are committed to supporting the maintenance and operation of the

OSC. Their hope is that with the CRG coming in, that they will be able to support the O&M budget of the facility. In the worst case scenario, the 24 sports groups that he has contacted have stated that they are willing to pay up to \$5 per hour for the use of the sports fields. This is a backup. It is not realistic to expect the CRG to pay for the O & M of the fields forever. He believes that the sports groups are going to have to chip in and help out with that cost recovery. There is a lot of support for this project going forward, and delaying at this point would not be advantageous to the community or the youth. He would like to see this keep moving forward, and to enter into the ERN phase. He feels the PRC, the sports groups, and everybody is behind this and want this to go forward, and that they have addressed all the issues, especially the money for maintenance. Everyday there is a shortage of fields in Morgan Hill, so it is imperative that this move forward as soon as possible.

Mayor Pro Tempore Tate asked why there was a disparity between the \$7 per hour figure and the \$5 per hour that Mr. Bernardini had mentioned.

Mr. Bernardini responded that the \$7 is the cost for the city to maintain the fields, and that private non-profit groups can do it for much less because they do not have the expenses the city does. He stated that the figures he has calculated has dropped the figure down to \$0 for the youth sports groups, with \$127,000 budget to maintain the soccer and sports fields.

Mr. Tate responded that there is not yet agreement on how much is required for the maintenance of the fields, and that is one key question that needs to be answered. He feels that Mr. Bernardini is using assumptions that are different from the ones used by city staff

Mr. Bernardini stated that they based their figures on actual costs to perform the various parts of the maintenance, and they came up with \$127,000. They all agreed that the figure the city came up with could be reduced considerably.

Mr. Jason Sharp, one of the partners and director of sales for the Coliseum Recreation Group (CRG). He wanted to suggest that the Council direct the City Manager, staff and the PRC to closely partner with the CRG to refine the public partnership or non-profit RFP model so we can understand and make this deal go through. He stated they would also like to enter into an ERN upon completion of this model contingent upon approval by Council. He would like staff to extend the lease of the fields to CYSA for an appropriate amount of time for this to go through so they would still be able to cover some of the costs while and until they can break ground.

No further comments being offered, the public comment was closed.

Council Member Sellers stated that the Economic Development Committee has been looking at this issue and has identified that one of the strengths of our community is our youth oriented facilities. This is a model that will enhance what we have and provide opportunities that we don't currently have and cannot bring on our own. We need to look at some things as we move this forward. One of the directions Council has given to staff is to make this facility pay for itself to the degree possible, and that is an unenviable position, because then you are starting to make some significant assumptions. Instead

of starting from that point, we should start by determining where are the needs in the community, how can we best meet those needs, factoring in the synergistic and economic benefits to the community that will derive from this. There are several things that we would have liked to put into the IRC, that we couldn't because they were not feasible financially or otherwise, and some of those will exist at the Coliseum. Likewise, there will be things in the IRC that could be complementary to what is going on at the Coliseum; that could be partnered on. He would like to see this move forward in a very timely fashion because time is of the essence because we are running out of time with the soccer complex, and we should extend that lease now; and there are significant needs that are not being met. The need for fields is acute in Morgan Hill. This opportunity will help us meet that need.

Council Member Sellers continued that there are some things he would like to take a look at: 1) The ways we can more directly partner with the Coliseum model. It seems to him the development of a building that has outdoor and indoor restroom facilities makes sense; and there may be some concession opportunities as well that could be of mutual benefit. 2) Determine if there are other opportunities to develop memberships that might bring revenue to the IRC side of the ledger by enhancing the ability of the Coliseum to provide services to members. 3) Determine if there are opportunities to partner with the youth sports groups. He feels that we need to be careful as a Council to say that we are negotiating; we are not making any assumptions and we are not saying "here's the keys, how do you plan to use the car". We are saying how are we going to make this work out mutually, and if we can come up with an agreement that is mutually beneficial then we ought to move forward. There is still the possibility that we could say no if the models are fundamentally so different that they are not going to come together. The evidence so far indicates otherwise, and we need to pay close attention to the extensive review that has been done by the Parks and Recreation Commission. He thinks that we should move forward, and if they do decide to look at some of the interim steps he would like to have a 30 day timeline to work through some of the models unless staff indicates that this is virtually impossible. If they are not going to do an ERN this evening, he wants to look at doing one in 30 days so that they can keep this moving forward and show the PRC and the CRG that the Council is serious; and most importantly, show the community that they are as anxious as they are to get those fields.

Council Member Grzan stated he would like to see a reconciliation of the discrepancies in the maintenance costs. He also requested a full cost matrix on the facility if possible, showing both direct and indirect costs. If this becomes a regional destination point, would there be a possibility of an increase in other revenue sources such as hotels and restaurants; and this should be included in the matrix. He would like to know if the sports group is interested in a profit sharing formula. Also maybe we should set up a minimum amount of money that the city would like to receive from the operation. He would like to also see what would be a minimal configuration for the facility; if it was a two field complex at this time, and that is all that we could afford, what would that do for us. If staff's analysis is accurate, we have a \$276,000 shortfall that we would have to recover, and what are we willing to afford. What for example could we do with a \$25,000 shortfall. Obviously, with a \$1.2 deficit next year and the year after, any additional hits to that would certainly affect our abilities to operate as a city. Our core services are the priority here. Recreation is valuable and important, but if we faced with the elimination of city services that support public works, public safety, or other vital services, he is not sure we can take on additional hits to our General Fund with adding additional programs. Wants to see how we can



resolve the shortfall. He is willing to extend the matter for further research to reconcile some of points that have been raised this evening, and would like to see it brought back to the Council at some point.

Council Member Carr stated that there are a couple of outstanding issues that they need to be worked out, with the discrepancies in the operation and maintenance (O&M) costs being first and foremost. We need to know where those numbers came from so we can come to agreement so that a few years down the road when that number is not maintaining the fields any longer like the current fields, we don't have all the sports groups complaining to the Council that the city is not putting enough money into the fields. There needs to be agreement on those costs, and on how to cover those costs. He expressed his concern about the competition with the IRC issue, and is pleased that the CRG has information to share on how to deal with that issue. The vision of community versus regional is an issue that the Council needs to have some discussion about. Those fields were purchased specifically because Morgan Hill kids were not getting use of those fields the way they were being operated, and we wanted to get our kids on those fields. He has been in agreement that any of the facilities that they have been building, whether the Community Center, the Aquatics Center, the IRC, requires a regional draw to make them work; and he thinks that adds to our community in a lot of different ways. We do need to have more of a discussion on that, and make sure that we maintain our original goal so that all of these teams that Jeff brought us the list of are still going to have access to the fields as they expect as we go through this process.

He also believes that there are a couple of tracks that can be worked on simultaneously, so we can move forward with Phase I of the OSC, while we are figuring out some of the details of the possibility of this partnership for the rest of this. How tough is it to get going with a couple of fields, and that should be one of the first things we should have been able to do; but it is a lot tougher than putting a lawn in your backyard. If we can figure out how to dual track some of this that we can actually get started on some of the things that the youth sports teams are really in need of and are anticipating. We will have to have that discussion about the cost recovery; and maybe we need to frame that discussion. We have always said that these facilities need to recover 100% of their costs, and that assumption is from day one of the doors being open. Perhaps we need to broaden that discussion a little bit; and change it to 100% cost recovery over a three year period, or over a specified number of years so that it is a little more realistic. And what does "cost recovery" mean? Is defined as from today's budgetary standpoint, and that if there are new revenues that come in get applied that help us with the cost recovery instead of raising the fees on every user. He thinks there are ways of expanding the discussion on what cost recovery is, and we need to work with the sports groups and the community at large in having that discussion. These are

He stated that these are things that the Council needs information brought back for discussion. Some people may be disappointed that we are not moving as fast as they want, but we are in a much better position than other communities around us, and he thinks the situation will become even more positive as we move along and will turn out to be very fruitful for the entire community.

Mayor Pro Tempore Tate stated that he agreed with the staff's recommended action on this item. He has quite a few concerns, and one that wasn't yet addressed is the \$2.5 million that they are going to have to put the project. Phase I was to cost us \$2.4 million and so the council had to find another \$100,000 to reach the recommended \$2.5 million; but with this one another \$2.5 million is being added to that, so it

is not \$2.5 million, it is \$2.6 million. And that leads him to talk about the ERN and what that is all about in his mind. You go to an ERN because you have the best deal you can get, and you get into the negotiation to finalize the process of how the best deal you can get will be implemented. There are lots of things in the discussion that has taken place so far that are saying we will resolve that during the ERN phase. He does not think that is the right place to resolve what your basic agreement is; and with questions that have \$2.5 million worth of capital costs at the front end wide open and not really addressed, he can't see entering that ERN. He also wants to be in agreement on what the O&M costs will be, and he thinks that one of the reasons that agreement can't yet be reached is because the 24 sports groups are just beginning to come together. When they all come together and can agree on that, and the staff can get comfortable with it, hopefully it will be a lower number than what staff is now using; but we don't know that yet so we should not go forward yet.

He continued that he is not too concerned about the competition with the IRC, but that brings up the whole question of the two different philosophies. The reason he is not concerned is that the model for the coliseum is based on 70% of the people coming from the outside; whereas it is reverse for the IRC with 70% of the people being local. We need to figure out how to blend that, and how we are meeting our objective of getting those outdoor fields developed for the Morgan Hill community, which was the group the fields were targeted to serve. He would like to be more comfortable with an indoor site dedicated to regional use and an indoor site dedicated to Morgan Hill use because he does not see how that works together yet.

Mayor Pro Tempore Tate expressed that he feels a month is a little unreasonable to get to the point where all those issues can be resolved, but he certainly agrees that we want to move this forward as fast as possible.

Council Member Grzan would like to know what teams we are currently serving, and where are they going now for their facilities. Are they going outside of the community to get their needs met. Who would not be served if we do nothing; and who will be served if we move forward. He noted that the City of Gilroy is putting together a \$40 million outdoor complex, and he wanted to know what impact that will have on this project. How will this affect our ability to draw our own population if they charge less than we do for the same service?

Council Member Sellers stated that he wanted to make a motion. He would like to set a target date for the third week in July to find resolution in the areas that have been identified such as the IRC and the O&M costs. He is pleased with the high level of involvement of the PRC, and would continue to encourage their active involvement in this process. One final comment on the IRC is that we are looking at some very specific users. He does not like to call it the IRC, because it is a lot more than that, and one of the things will be is a Youth Center for our young people. He feels that we can significantly enhance opportunities for our youth by partnering, and perhaps have opportunities for the kids to go to the climbing wall or get to do other things that might only be available at the coliseum. Other opportunities might be developed for the senior users as well, but he is particularly interested in the young people that will be using the youth center because he hates to think of them just sitting in a room in the afternoon because it is the only place to hang out. There needs to be a lot of things for them to do,

and if we have things across town we ought to be able to figure out how to do that. We have talked about cost recovery; we have talked about local versus regional and making sure that is primary. Also regarding maintenance costs, you are always going to get a higher estimate from the city for a variety of reasons because of the constraints the city operates under as a municipality. There is a lot more room for creativity if you are looking at it from the private sector. We have to be firm on the number. So, if those are the main areas that we ask to be brought back with the goal of being close enough to where we can feel comfortable moving forward with the ERN, he would like to see that. So that would be his motion, to incorporate those ideas and the ideas raised by his colleagues.

Mayor Pro Tempore Tate asked if his motion was to adopt staff's recommended actions with a come back of the third meeting of July.

Council Member Sellers added with the goal of trying to get to an ERN at that point because these major points have had significant resolution, though they might not be finalized.

Council Member Carr seconded the motion, and asked for clarification as to whether Council Member Sellers was directing staff to contact CYSA about extending the lease to 2006. Council Member Sellers said that it is included in his motion.

City Manager Tewes stated that the written report provided by staff goes into much more detail about why the staff believed it was appropriate to recommend what they did. Some of the factors they mentioned will still be challenges, but he asked for clarification on only one point at this time. The staff recommendation was that they not focus on one particular proposal, but look at a full range of proposals. His understanding of the motion is that they are to continue to focus on only one, with the goal to move toward an ERN with the CRG. The staff recommendation was that they are far from the point of being at that stage, and we ought to look at other options. Does the Council want them to look at other options or only work with CRG?

Council Member Sellers noted that we did an RFP process from a broad base and we only received one back, so where would those others be?

Mr. Tewes stated that there were other potential proposers who said they were not going to issue a proposal because they could not meet the conditions. If we are willing to relax some of the conditions they might be interested.

Mayor Pro Tempore Tate asked what conditions should be altered, and that maybe we should look at that.

Mr. Tewes responded that the important issue for him is in terms of the budgeting and the available resources as presented and not yet negotiated, the CRG would require the city to identify funds over and above the funds we have already identified, so we would become a capital investor in this private development. Does the Council want to say that is O.K. and we are just negotiating the amount we are investing in it, or are you prepared to say this is a private development and they ought to be treated as

any other private development? Those are the kinds of issues outlined in the staff report.

Mayor Pro Tempore Tate stated that if we say that is O.K. to go ahead and look at the capital investments, we need to figure out where that money is coming from because we don't have it.

Council Member Sellers said he raised the \$2.5 million as an issue that needed to get further discussion and review. It seemed to him that there are some opportunities that have to be identified to some degree. There may be economies of scale or ways we can reduce the \$2.5 million, but the costs that are the solid costs have to be identified.

Mr. Tewes stated that was his point. Is the goal to reduce the amount that we would be contributing to the private development or is "no contribution" the position that we take?

Council Member Carr stated that in making his second on the motion, he was focusing on the goals of the original RFP. We issued an RFP, and people responded based on what was in that. It may add another step, but if in the next 60 days, or however long that is, if the discussion gets to a point where we realize we need to change those in order to be able to work anything out than I think that is the discussion we need to have. Right now we would have to open it up to other opportunities and options, if we are going to change that baseline because that is really where we started. And to continue to have some consistency, we need to be able to stick with the goal of the RFP. I don't know if we can have a discussion any longer within the boundaries of what we sent out in the RFP. If we have discussed it enough, and we can't get anywhere else within the boundaries of that RFP then we need to talk about the goals of that. If we can still work within the boundaries we have set, then that is what we need to be doing for the next 30 or 60 days or whatever time period we identify tonight, and come back from that point. That may mean we add another step to this process, and it may mean that we drag this process out a little bit more; but I am not prepared tonight to change the goals of the RFP and still just focus on one option.

City Manager Tewes spoke to the Operations and Maintenance (O&M) issue. The Parks and Recreation Commission (PRC) directed the youth sports groups to return to them with an operating model in June. The discrepancy in the cost figures can easily be resolved. The question is who is willing to take the risk. If the sports group is organized and is willing to lease the facility from us and maintain it at the level that is appropriate to their usage and assume the risk, then it does not matter whose estimate is right. So that is something that is easily resolved and should be a part of this discussion.

Council Member Grzan stated that this should be part of the discussion, and if the CRG is willing to lease or run the entire facility, he would like to know if that is still a possibility.

Mayor Pro Tempore Tate re-opened the public hearing to allow Mr. van Keulen to comment on some of the council's questions both as a citizen and as a member of the PRC. The number one purpose of the CRG is to pay the maintenance and over head expenses associated with the complex. Without them, the valuable asset the city has in the grass on the fields would be lost because of lack of maintenance. This is the number one reason for the city to try to work with the CRG, because they are going to provide the

revenue to cover the O&M of that facility in its current form and then in its newly constructed form which would include the baseball fields. Secondly, it serves a different type of sports need for the community, which is the competitive sports need which is currently going to San Jose. All those related dollars are being lost to the community, so they will be bringing those dollars back to the city; so he does not see it conflicting with the IRC which serves the recreational clientele of Morgan Hill as well as the seniors and the youth.

As a member of the PRC, he stated that one of the reasons they recommended that the CRG come to the Council to engage in the ERN is because whenever the PRC tried to narrow down the terms of the deal they were told they couldn't do that because that would infringe on the City Council's ability to negotiate. If the Council wants the PRC to do work out the details, the Council needs to allow them the authority to do it so they don't have to come back in a month and to try and work out such details as paying a higher lease rate or whether they should make a capital contribution. PRC needs some direction on that issue. Regarding the cost difference between the city's O&M costs and the actual costs to maintain the entire complex, it comes down to the cost of a public entity to contract and do things being greater than it is for the private sector to do it; which is essentially what happens when the sports groups do it. If, as Mr. Tewes suggested, the youth organizations are able to undertake that risk, then the problem would be solved.

In response to Mr. Grzan's concern about competition with the Gilroy facility, Mr. van Keulen stated that people won't travel from Morgan Hill to Gilroy if there is no cost involved, because that distance proves to be overwhelming to participate in sports, and people won't do it regardless of the cost.

Mr. Payne again addressed the Council regarding the lease payment versus the infrastructure costs. In discussions with City staff, they have indicated that while they are under constraints for the lease payments they also recognize that lease payments can be increased and infrastructures can be borne by them as the developer. So they have to look at the flexibility of the lease terms over the long term. In other words, do we start out at \$75,000-\$100,000 as in our RFP, and we incur some infrastructure costs on site or parking improvements or fees or assessments, versus accelerated lease payments over the long term. These are some things that they have indicated to staff, and he wanted to make sure that Council is aware of that so the \$2.5 million budget potential is not necessarily something that is an automatic thing to be incurred by the general fund.

Mayor Pro Tempore Tate closed the public hearing again.

Council Member Sellers again stated that he sees the PRC as having a significant role in this. He is looking to see a proposal that has gotten well vetted and thought through when it comes back to the Council; not here are some other issues that we need to resolve. So, if PRC wants to come back with what they think is best for the city, the Council will either say 1) it is great and let's do it, or 2) no we can't do it for some reason; or 3) come back with more details. He stated he is very comfortable with PRC pushing the ball down the field on this and taking the initiative to do that.

Mayor Pro Tempore Tate asked Mr. Sellers to review his motion.

Council Member Sellers restated his motion. The staff, working very closely with the Parks and Recreation, is to identify some of the key areas. 1) The \$2.5 million costs that are going to be required; and either reducing those or reconfiguring those to try and figure how those might be paid for. 2) Figuring out cost recovery, and in line with Council Member Carr's suggestion, it is virtually impossible to have cost recovery in year one so that needs to be a multiple year approach. 3) That the maintenance cost issue be considered, and figure out a resolution of that issue. 4) Settle the issues with the IRC and 5) any residual issues about local versus regional. And direct the staff to return to the Council the third meeting in July.

Mayor Pro Tempore Tate noted that his motion had not addressed City Manager Tewes request that we re-open it to other alternatives as well. Is that part of the motion?

Mr. Sellers agreed, but stated that it is not going to be an either/or. He wants to keep working towards our best deal with the CRG option and see if there is anything else out there.

Council Member Carr noted that last point was why he was trying to re-direct the discussion to be around the framework of the RFP, because we only have one response to the RFP. As long as the discussion is within the boundaries, then we are having the discussion with the one proposer. If we get to the point, where there are conflicting requirements in the RFP then would be the time to open it back up again. If we change the RFP, we will have to open it up.

Council Member Sellers stated that his intent is to stay within the scope of the RFP at this point.

Mayor Pro Tempore Tate stated that this motion requires us to stay within the boundaries of the RFP, and not look at the reasons why we did not get any other bids. He would like to have the latitude to look at the reasons we did not receive more bids; and Council Member Grzan stated that he agreed.

Council Member Carr stated that, to him, it was the same discussion. If we are directing staff to go back within the boundaries of the current RFP and talk to the one responder about whether they are going to be able to meet the requirements of that RFP, we will find out if there are things that we need to open up or not. There is still room for discussion within the RFP, and if they come back in 60 days and say this is as close as we got, then we will know there are conflicts within the RFP itself, and that is when we need to open it up. This may be an additional step that will slow us down, but he is not ready to change the RFP without knowing why; and if he opens it up to talk with another operator it has to be opened to any operator that would want to come to talk to them to be consistent and fair in the process.

Mayor Pro Tempore Tate wants to give that latitude to staff to talk with other operators to find out what the problems were with the RFP.

Council Member Carr stated that they spent time to make the RFP very specific to make for less negotiation so that it was specific criteria that had to be met.

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City Manager Tewes agreed and stated that the submitters were asked to give their best proposal. He is disappointed that they did not receive that from them.

Mayor Pro Tempore Tate reiterated that the motion will bind them to this negotiation for 60 days.

Council Member Sellers confirmed that was true.

Council Member Carr confirmed his second of the motion reiterated by Council Member Sellers following this further discussion.

Council Member Sellers offered an amendment to the motion that we will focus primarily on the parameters within the RFP; but in addition, we would direct staff to go back to the other applicants preliminarily and see if there are indications that there might be models out there that would be beneficial to the city. In the meantime, the rest of this can keep moving forward. If in the staff's best judgment, they determine that there is an option that should be looked, but for some small thing they did not apply they should come back and let the council know and not have to wait until the end for that to happen.

Council Member Carr stated that if it helps us move forward tonight and not be stalled, he will support this; but he feels that there is some inherent unfairness to that. We went through an RFP process, we have been engaging the PRC and the sports groups all this time, and now we are saying we are not sure we did that right; and he does not know what the problem with the process is or even if there is a problem.

Council Member Grzan stated that he does not know there is a problem with the process, but the end result is there are discrepancies and this needs to be explored. For him an ideal situation would have been one where the facility is built and maintained by the operator with no incurring maintenance cost to the city and the needs of the youth and teams in our community are served.

Council Member Sellers asked for further clarification on the Parks and Recreation Commission's thinking on the process from PRC Chairperson van Kuelen since they have looked at this issue extensively.

Mayor Pro Tempore Tate called for a 5 minute break to dismiss the students from the meeting. (8:20 p.m.)

Meeting was re-convened, and Mr. van Keulen was called back to the podium to answer Council Member Seller's question, but the public hearing was not reopened.

Mr. van Keulen stated that there is some question with regard to the terms of the RFP that has created the situation of only one responding party. One of the major concerns that the Council and the PRC were trying to address initially was the component of the O&M and the oversight of the outdoor sports complex was going to be handled by the local non-profit youth organizations. They wanted to leave

that control, involvement and participation of the community through its non-profit youth organizations in the hands of those organizations, and not remove it, so that was a criteria set forth in the RFP. That is the component that eliminated the other interested parties who wanted to completely run, operate and charge for the use of the entire facility. They were all turn key operations that essentially excluded the involvement of the youth non-profit sports organizations except for paying a fee to use the facility. This was the direction that the PRC received from the Council, and passed on as part of their RFP criteria. That is the answer to that question, and that is why there were not many responses because they do not want to participate with the youth sports organizations in a partnership format. They just want to have a turn key operation; and, in fact, the proposal that have kind of been made on the side and weren't even presented to the PRC were basically for the city to fund the entire construction of the facility and then let them come in manage it. That was, for example, the Field of Dreams proposal.

City Manager Tewes stated that was a fair indication of why some people did not submit, but he is aware of other proposals that perhaps Craig has not seen because they were never submitted. These have looked at the criteria in the RFP and said they would be willing to propose a private-commercial venture on a portion of the site, and generate income for the city and allow the outdoor sports facility to be managed by the youth sports groups, but they stated they can't achieve the kind of revenue expected. So that is why they did not propose. They saw the goal of 100% cost recovery, and said they could pay rent, could buy the property, we can pay market, but it is not going to generate the kind of income you expected, so they did not submit.

Mayor Pro Tempore Tate stated that they could have submitted a proposal similar to what was submitted by the CRG then.

Council Member Sellers stated that he is absolutely not comfortable with any proposal that does not allow us to continue to have our youth sports groups involved because that is such a fundamental part of what they were trying to do out there. He stated he would then limit his amendment to his motion to limit the staff to only talking with folks who have a cost recovery component and who are not looking at being the operators to the exclusion of the local youth sports groups. If we do that, it appears that we would limiting it down to 1, or maybe 2 preliminary discussions that may or may not have any value to them, but then we have done our due diligence on this issue. He asked Council Member Carr's indulgence to allow this further amendment to the motion.

Council Member Carr stated he is happy to continue his second on that, but he did want to talk about the time line. This is a lot broader than what he was originally seconding, and he is not sure that 60 days really does it. If the PRC is going to be more involved, we need to give them more time. If we are going to broaden this, his thought that it would be broadened after the next meeting if it was needed at that time. But if we are doing it today, then perhaps we ought to just go with the staff recommendation of a 120 days, or something closer to that.

Council Member Sellers stated that the goal would be 60 days, but if staff determines that additional time is required, they should let the council know that by the end of June. By that time they will have received the report back from the youth sports alliance, and the PRC will have had at least one meeting,



and staff will have had an opportunity to pursue some of these other issues. He would like to keep with his timeline, but he understands that it may need to be increased to 90 days. He would rather start with the goal of 60 days, and has the staff let the council know at that point if they need more time. He does not want to say 120, because then it will be 120. If we say 60, and maybe we get 90, then we can be happy with that.

Council Member Carr clarified that the motion does not contain recommendation #4, but that this will be discussed and voted on separately from the current motion; and Mr. Sellers agreed.

**Action:** *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (4-0, with Kennedy absent) **Directed** staff to work closely with the Parks and Recreation Commission to identify 1) the \$2.5 million costs that are going to be required, and either reduce or reconfigure those costs to determine how they might be paid; 2) to determine what would be a reasonable time to expect cost recovery to occur; 3) to determine a resolution to the operations and maintenance cost issue and to determine a firm number for those costs; 4) to settle the issues with the Indoor Recreation Center and 5) to settle any residual issues about local versus regional usages.*

**Action:** *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (4-0, with Kennedy absent) **Directed** the City Manager and the Parks and Recreation Commission to continue to explore, within the parameters of the RFP, other proposals for the operations of the Outdoor Sports Complex; but only consider those proposals that have a cost recovery component and are not intending to be the operators to the exclusion of the local youth sports groups.*

**Action:** *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (4-0, with Kennedy absent) **Directed** staff to report back to Council within 60 days on the previous two actions. If more time is required, the staff is to return to Council by the end of June to request an extension of time.*

**Action:** *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (4-0, with Kennedy absent) **Declined** to enter into an Exclusive Right to Negotiate with any Potential Private Partners at this time.*

**Action:** *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (4-0, with Kennedy absent) **Directed** Staff to Contact California Youth Soccer Association (CYSA) to Extend their Lease Options at the Soccer Site until June 2006.*

Mayor Pro Tempore Tate called for discussion on the staff recommendation that the Council provide direction on the schematic design of Phase One of the OSC.

Council Member Carr asked Recreation and Community Services Division Manager Spier to clarify

what the staff is asking of the council on this recommendation, as it appears that it will require some money and some input from the youth sports alliance.

Ms. Spier responded that depending on what the previous motion was going to be, the staff's concern was that our Phase I does not mirror the CRG proposal, and so at some point we need to do that conceptual phase again to make sure we are still meeting all the needs of the non-profit groups. One of their criteria was that they lose only two fields, and we have an overlay from our architect but it has not been validated. So the staff has concern about at what point we bring those two proposals together.

Council Member Carr noted that he would like to be able to dual track some of these issues. We are now going to go through what could become a 120 days process to figure out if there is an operator that we want to partner with on this process, so does that mean we simply lose 120 days to the fields, or can we figure out a way to carve out this corner, and we will eventually do something different with it, so lets move forward with the rest of this place right now. We will still have the O&M question, but how can we dual track some of this so we don't hold up the youth sports groups that are looking for the fields and may not be all that interested in the building anyway.

Ms. Spier recommended that the city have an architect look at all the pieces and make sure they can fit, and right now that is the unfunded piece.

City Manager Tewes stated that the staff thinks there are creative opportunities possible. For example, as he suggested, and he thinks they would acknowledge, the CRG has not really done any architectural or civil engineering work. They have said they can fit their building within that site, but they have not identified the storm drainage basin needed to support that site. Well that could be accommodated in one of the fields, if the sports groups are willing to live with a field that would be depressed and might flood out every once in awhile. All this has not been figured out yet.

Council Member Carr stated he would like us to work on all those issues, and just assume that there will be something there. It may not be CRG, it may be that the city would sell the property off to create the fund to provide the O&M, but he would like to move forward with assuming that this corner will be carved out differently and figuring out how we actually start taking the steps to actually build the outdoor sports complex that we have been talking about for a long time.

Council Member Sellers asked if that was a motion, and stated his desire to second it if it is a motion.

Council Member Carr stated that it is a motion, and asked staff if they had a dollar figure for the architect at this time.

Mr. Tewes stated that he thinks it can be done within the appropriation the Council has made for the CIP. It is just that whatever they spend on that makes less available for the construction, but he does not think it will be very expensive.

Mayor Pro Tempore Tate called for the vote, and the motion carried.

**Action:**        *On a motion by Council Member Carr and seconded by Council Member Sellers, the City Council unanimously (4-0, with Kennedy absent) **Directed** Staff on the Schematic Design of Phase One of the Outdoor Sports Complex, to move forward with the assumption that there will be something different in that corner of the property and to obtain architectural input on that assumption; and to move forward with the steps needed to build the outdoor sports complex so that the fields will be available for use as soon as possible.*

#### **FUTURE COUNCIL-INITIATED AGENDA ITEMS**

None.

#### **RECONVENE TO CLOSED SESSION**

Vice-Chairman/Mayor Pro Tempore Tate announced that Item 3 has been covered, and Items 1 and 2 will be discussed. He adjourned the meeting to Closed Session at 8:47 p.m.

#### **RECONVENE**

Vice-Chairman/Mayor Pro Tempore Tate reconvened the meeting at 9:10 p.m.

#### **CLOSED SESSION ANNOUNCEMENT**

Mayor Pro Tempore Tate announced no reportable actions.

#### **ADJOURNMENT**

There being no further business, Vice-Chairman/Mayor Pro Tempore Tate adjourned the meeting at 9:12 p.m.

**MINUTES RECORDED AND PREPARED BY:**

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**MOIRA MALONE, DEPUTY AGENCY SECRETARY/DEPUTY CITY CLERK**



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: June 1, 2005***

### **DEVELOPMENT AGREEMENT APPLICATION DA 05-01: COCHRANE-MISSION RANCH**

#### **RECOMMENDED ACTION(S):**

1. Open/Close Public Hearing
2. Waive the First and Second reading of Development Agreement Ordinance
3. Introduce Development Agreement Ordinance (roll call vote)

#### **EXECUTIVE SUMMARY:**

A request for approval of a development agreement which covers phases 9b, 10 & 11 of the Mission Ranch project located on the south east corner of the intersection of Cochrane Rd. and Mission View Dr. In March 2005, the project received 48 building allocations as part of 2004 RDCS competition. Eighteen allocations were awarded for FY 2006-07 and 15 allocations were awarded for each FY 2007-08 & 2008-09. The provisions within the development agreement apply to a 48 lot division of a 3.07-acre portion of a 98 acre Mission Ranch site.

Project development agreements are required as a formal contract between the developer and the City. The development agreement formalizes the commitments made during the Measure P process and establishes the development schedule for the project. The project specific commitments are identified in Paragraph 14 of the development agreement, and the development schedule is contained in Exhibit B.

The Planning Commission reviewed the application at their May 10, meeting, at which time the Commission voted 6-0 to recommend approval of the development agreement. The Planning Commission staff report and draft minutes are attached for Council's reference.

#### **FISCAL IMPACT:**

None. Filing fees were paid to the City to cover processing of this application.

**Agenda Item # 9**

**Prepared By:**

**Senior Planner**

**Approved By:**

**Kathy Molloy Previsich  
Director of Community  
Development**

**Submitted By:**

**J. Edward Tewes, City  
Manager**

**ORDINANCE NO. , NEW SERIES**

**AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF MORGAN HILL APPROVING  
DEVELOPMENT AGREEMENT, DA-05-01 FOR  
APPLICATION MP 04-26: COCHRANE-MISSION  
RANCH (APN 728-32-010)**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY  
ORDAINS AS FOLLOWS:**

**SECTION 1.** The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

**SECTION 2.** The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

**SECTION 3.** The Planning Commission, pursuant to Chapter 18.78.125 of the Morgan Hill Municipal Code, awarded a total of 48 building allocations for fiscal years 2006-2007, 2007-2008 thru 2008-2009 to that certain project herein after described as follows:

<u>Project</u>	<u>Total Dwelling Units</u>
MP 04-26: COCHRANE-MISSION RANCH	48

**SECTION 4.** References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

**SECTION 5.** The City Council hereby finds that the development proposal and agreement approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

**SECTION 6.** Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

**SECTION 7.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

**SECTION 8.** Effective Date Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 1<sup>st</sup> Day of June 2005, and was finally adopted at a regular meeting of said Council on the Day of June 2005, and said ordinance was duly passed and adopted in accordance with law by the following vote:

**AYES: COUNCIL MEMBERS:**  
**NOES: COUNCIL MEMBERS:**  
**ABSTAIN: COUNCIL MEMBERS:**  
**ABSENT: COUNCIL MEMBERS:**

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
**Irma Torrez, City Clerk**

\_\_\_\_\_  
**Dennis Kennedy, Mayor**

**∞ CERTIFICATE OF THE CITY CLERK ∞**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA,** do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of June 2005.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

DATE: \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**



## **CITY COUNCIL STAFF REPORT**

**MEETING DATE:** *June 1, 2005*

### **CONDUCT PUBLIC HEARING AND ADOPT RESOLUTION TO ESTABLISH MONTEREY UNDERGROUND UTILITIES DISTRICT No. 3 – DUNNE AVENUE TO COSMO AVENUE**

#### **RECOMMENDED ACTION(S):**

1. Open/Close Public Hearing.
2. Adopt Resolution of the City Council of the City of Morgan Hill Establishing Monterey Underground Utilities District No. 3 – Dunne Avenue to Cosmo Avenue.
3. Direct the City Clerk to notify all affected utilities and all persons owning real property within ten (10) days after the date of the adoption of the resolution.

**Agenda Item # 10**

**Prepared By:**

\_\_\_\_\_  
**Assistant Engineer**

**Approved By:**

\_\_\_\_\_  
**Public Works Director**

**Submitted By:**

\_\_\_\_\_  
**City Manager**

**EXECUTIVE SUMMARY:** At its May 4, 2005 Council meeting, the City Council directed staff to hold a public hearing to form an Underground Utilities District (UDD) for the Monterey Underground Utilities Project. By holding this hearing, and adopting the attached Resolution, PG&E and the other affected pole mounted utility companies will be notified to prepare design documents and arrange for their lines and facilities to be undergrounded. The electric portion of the Monterey Underground Utilities Project will be funded by PG&E Rule 20-A Underground Conversion Fund (allocation). This fund was established by the California Public Utilities Commission in 1968 and it requires electrical utility providers to annually allocate underground conversion funding to communities within its service area based on the number of overhead meters serviced within that community.

Per Chapter 12.12 of the Municipal Code, the process for establishing a UUD requires a legally noticed public hearing with notice to all affected property owners. The boundaries of the proposed UUD are identified on Exhibit "A". If, after said public hearing, the Council adopts a UUD, all affected property owners will be noticed that they shall accommodate the conversion of their individual service connections from overhead to underground. Rule 20A funding includes an option to fund the cost of the individual service conversions up to \$1,500 per service as well as the installation of the service conduit up to 100 feet from the street right-of-way. Staff is recommending the City utilize this option so that affected property owners will not have to pay for the conversion.

Due to scheduling logistics for PG&E's limited design and construction staff, it is estimated that actual construction may begin anywhere from 18 to 24 months after the establishment of the UUD.

The current balance of Rule 20A funding for Morgan Hill is approximately \$1,200,000. The City has the ability to borrow an additional 5 year allocation (approximately \$500,000). The PG&E estimate to complete the underground work from Dunne Avenue to Cosmo Avenue will require \$1,700,000 of Rule 20A funds plus approximately \$118,500 in additional monies for work outside the eligibility limits of Rule 20A. The additional monies will be funded through the City's underground in-lieu fee fund.

**FISCAL IMPACT:** No Fiscal Impact at this time.

**RESOLUTION NO. \_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL  
ESTABLISHING UNDERGROUND UTILITIES DISTRICT – DUNNE AVENUE  
TO COSMO AVENUE**

**WHEREAS**, a Public Hearing was called for on June 1, 2005 at the hour of 7:00 P.M. or thereafter, in the Morgan Hill City Council Chambers, 17555 Peak Avenue, Morgan Hill, California, to ascertain whether the public necessity, health, safety or welfare required the removal of poles, overhead wires and associated overhead structures, and the underground installation of wires and facilities for supplying electric, communication or similar or associated services, within that certain area of the City described as follows:

That portion of Monterey Road between Dunne Avenue and Cosmo Avenue, See **Exhibit A** for Detailed Map, and

**WHEREAS**, Notice of such hearing was given to all affected property owners as shown on the last equalized assessment roll and to all affected utilities, in the manner and for the time required by law; and;

**WHEREAS**, such hearing was duly held, and all interested persons were given an opportunity to be heard; and

**WHEREAS**, the City Council determined after hearing on the subject that the Monterey Underground Utilities District No. 3 herein created is in the general public interest reason that:

The undergrounding to be accomplished will avoid or eliminate an unusually heavy concentration of overhead distribution facilities; and the streets, roads or rights-of-way in the District are extensively used by the general public and carry a heavy volume of pedestrian or vehicular traffic.

**THEREFORE, BE IT RESOLVED** by the City Council of the City of Morgan Hill that pursuant to Section 12.12.030 of the Morgan Hill Municipal Code, the above-described area is hereby designated as Monterey Underground Utilities District No. 3 of the City of Morgan Hill. Attached, marked **Exhibit A**, and incorporated as part of this Resolution, is a map delineating the boundaries of said District;

**RESOLVED, FURTHER**, that the City Council does hereby fix January 1, 2007, as the date on which affected property owners must be ready to receive underground service, and does hereby order the removal of all poles, overhead wires and associated overhead structures and the underground installation of wires and facilities for supplying electric, communication or similar or associated service within Monterey Underground Utilities District No. 3 on or before January 1, 2007.

**RESOLVED, FURTHER**, that any electric, communication or similar or associated utility which undertakes underground installation of its facilities shall use its underground conversion funds computed pursuant to decisions of the Public Utilities Commission of the State of California or franchise for the purpose of providing to each premises on Monterey Underground Utilities District No. 3 requiring it, a maximum of one hundred feet of individual electric service trenching and conductor (as well as backfill, paving and conduit, if required). Each property owner in the Monterey Underground Utilities District



No. 3 shall be responsible for providing the City and its Contractor access rights onto their property for the installation of the electric service lateral and any electric panel modifications needed to receive underground service to their property and therefore provide for the maintenance of the electric lateral, conduit, panel and termination box located on, under or within any structure on the premises served.

**AND BE IT FURTHER RESOLVED** that the utility which undertakes underground installation of its facilities shall use the decisions of the Public Utilities Commission of the State of California for the purpose of providing to each premises in Monterey Underground Utilities District No. 3 requiring it a maximum of 100 feet of individual electric service trenching and conductor (as well as backfill, paving, and conduit, if required). Each other serving utility will provide service trenching and conductor in accordance with its tariffs on file with the California Public Utilities Commission or as required by its Franchise Agreement with the City. Each property owner in Monterey Underground Utilities District No. 3 shall be responsible for the installation and maintenance of the conduit and termination box located on, under or within any structure on the premises served.

**RESOLVED, FURTHER**, that the City Clerk is hereby instructed to notify all affected utilities and all persons owning real property within ten (10) days after the date of such adoption. The City Clerk shall further notify said property owners of the necessity that, if they or any person occupying such property desire to continue to receive electric, communication or other similar or associated service, they or such occupant shall, by the date fixed in this Resolution, or at the time fixed in any extension of said date or dates, provide the City or its contractor a right of entry and access to their property to make necessary facility changes on their premises so as to receive such service from the lines of the supplying utility or utilities at a new location, subject to applicable rules, regulations and tariffs of the respective utility or utilities on file with the Public Utilities Commission of the State of California. Failure to provide the City or its contractor Right of Entry and access to their property to make the necessary changes shall obligate the property owner, rather than the City to pay for such changes. Notification to the property owners shall be made by mailing a copy of this resolution, together with a copy of said Chapter 12 of the Morgan Hill Municipal Code to all affected property owners as such are shown on the last equalized assessment roll and to the affected utilities.

**PASSED AND ADOPTED** by the City Council of Morgan Hill at a Regular Meeting held on the 1st day of June, 2005 by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

#### **CERTIFICATION**

I, **IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA**, do hereby certify that the foregoing is a true and correct copy of Resolution No. \_\_\_\_\_ adopted by the City Council at the Regular City Council Meeting of June 1, 2005.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

DATE: \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**

## **RESOLUTION NO.**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL ESTABLISHING UNDERGROUND UTILITIES DISTRICT – DUNNE AVENUE TO COSMO AVENUE**

**WHEREAS**, a Public Hearing was called for on June 1, 2005 at the hour of 7:00 P.M. or thereafter, in the Morgan Hill City Council Chambers, 17555 Peak Avenue, Morgan Hill, California, to ascertain whether the public necessity, health, safety or welfare required the removal of poles, overhead wires and associated overhead structures, and the underground installation of wires and facilities for supplying electric, communication or similar or associated services, within that certain area of the City described as follows:

That portion of Monterey Road between Dunne Avenue and Cosmo Avenue, See **Exhibit A** for Detailed Map, and

**WHEREAS**, Notice of such hearing was given to all affected property owners as shown on the last equalized assessment roll and to all affected utilities, in the manner and for the time required by law; and;

**WHEREAS**, such hearing was duly held, and all interested persons were given an opportunity to be heard; and

**WHEREAS**, the City Council determined after hearing on the subject that the Monterey Underground Utilities District No. 3 herein created is in the general public interest reason that:

The undergrounding to be accomplished will avoid or eliminate an unusually heavy concentration of overhead distribution facilities; and the streets, roads or rights-of-way in the District are extensively used by the general public and carry a heavy volume of pedestrian or vehicular traffic.

**THEREFORE, BE IT RESOLVED** by the City Council of the City of Morgan Hill that pursuant to Section 12.12.030 of the Morgan Hill Municipal Code, the above-described area is hereby designated as Monterey Underground Utilities District No. 3 of the City of Morgan Hill. Attached, marked **Exhibit A**, and incorporated as part of this Resolution, is a map delineating the boundaries of said District;

**RESOLVED, FURTHER**, that the City Council does hereby fix January 1, 2007, as the date on which affected property owners must be ready to receive underground service, and does hereby order the removal of all poles, overhead wires and associated overhead structures and the underground installation of wires and facilities for supplying electric, communication or similar or associated service within Monterey Underground Utilities District No. 3 on or before January 1, 2007.

**RESOLVED, FURTHER**, that any electric, communication or similar or associated utility which undertakes underground installation of its facilities shall use its underground conversion funds computed pursuant to decisions of the Public Utilities Commission of the State of California or franchise for the purpose of providing to each premises on Monterey Underground Utilities District No. 3 requiring it, a maximum of one hundred feet of individual electric service trenching and conductor (as well as backfill, paving and conduit, if required). Each property owner in the Monterey Underground Utilities District No. 3 shall be responsible for providing the City and its Contractor access rights onto their property for the installation of the electric service lateral and any electric panel modifications needed to receive underground service to their property and therefore provide for the maintenance of the electric lateral, conduit, panel and termination box located on, under or within any structure on the premises served.

**AND BE IT FURTHER RESOLVED** that the utility which undertakes underground installation of its facilities shall use the decisions of the Public Utilities Commission of the State of California for the purpose of providing to each premises in Monterey Underground Utilities District No. 3 requiring it a maximum of 100 feet of individual electric service trenching and conductor (as well as backfill, paving, and conduit, if required). Each other serving utility will provide service trenching and conductor in accordance with its tariffs on file with the California Public Utilities Commission or as required by its Franchise Agreement with the City. Each property owner in Monterey Underground Utilities District No. 3 shall be responsible for the installation and maintenance of the conduit and termination box located on, under or within any structure on the premises served.

**RESOLVED, FURTHER**, that the City Clerk is hereby instructed to notify all affected utilities and all persons owning real property within ten (10) days after the date of such adoption. The City Clerk shall further notify said property owners of the necessity that, if they or any person occupying such property desire to continue to receive electric, communication or other similar or associated service, they or such occupant shall, by the date fixed in this Resolution, or at the time fixed in any extension of said date or dates, provide the City or its contractor a right of entry and access to their property to make necessary facility changes on their premises so as to receive such service from the lines of the supplying utility or utilities at a new location, subject to applicable rules, regulations and tariffs of the respective utility or utilities on file with the Public Utilities Commission of the State of California. Failure to provide the City or its contractor Right of Entry and access to their property to make the necessary changes shall obligate the property owner, rather than the City to pay for such changes. Notification to the property owners shall be made by mailing a copy of this resolution, together with a copy of said Chapter 12 of the Morgan Hill Municipal Code to all affected property owners as such are shown on the last equalized assessment roll and to the affected utilities.

**PASSED AND ADOPTED** by the City Council of Morgan Hill at a Regular Meeting held on the 1<sup>st</sup> Day of June, 2005 by the following vote.

**AYES:**           **COUNCIL MEMBERS:**  
**NOES:**         **COUNCIL MEMBERS:**  
**ABSTAIN:**   **COUNCIL MEMBERS:**  
**ABSENT:**      **COUNCIL MEMBERS:**

**☛ CERTIFICATION ☛**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA**, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on June 1, 2005.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

**DATE:** \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**



## **CITY COUNCIL STAFF REPORT**

**MEETING DATE:** *June 1, 2005*

### **2005 HAZARDOUS BRUSH PROGRAM**

### **COMMENCEMENT REPORT AND PUBLIC HEARING**

#### **RECOMMENDED ACTIONS:**

1. **Accept** 2005 Hazardous Brush Program Commencement Report
2. **Open/Close** Public Hearing

Agenda Item #	11
Prepared By:	<i>Melina S. Dole</i>
Asst. to the City Manager	
Submitted By:	
City Manager	

#### **EXECUTIVE SUMMARY:**

As part of the 2005 Hazardous Vegetation Management Program, Santa Clara County Fire Department staff have inspected properties in the Hazardous Hillside area. Property owners in these regions are obliged to meet special property maintenance guidelines to reduce the threat of fire. In particular, they must remove brush on their property that could provide fuel for a fire and increase the chances that fire on one property would spread to an adjoining property.

The Council adopted Resolution 5875 on December 15, 2004, declaring hazardous vegetation to be a nuisance and ordering its removal. The resolution also set the June 1, 2005 public hearing date for the brush abatement program. Brush abatement notices have been mailed to property owners of three parcels in Morgan Hill whose properties have been identified as having, or potentially having, a problem with hazardous brush. In addition, notice of this public hearing has been published in the *Morgan Hill Times* per Government Code Section 39556.

The purpose of this public hearing is to hear from property owners who object to having their property in the brush abatement portion of the 2005 Hazardous Vegetation Management Program. The list of properties in the Brush Program, attached as Exhibit A, has been posted at City Hall for ten days prior to this public hearing as required.

The City controls the growth of hazardous vegetation under the authority set out in Chapter 8.20 of the Morgan Hill Municipal Code and in Government Code Sections 39560 and following. The City has a contract with the Santa Clara County Fire Marshal's Office which provides for County abatement of the property if the property owner does not maintain the property as required. If the work is completed by the Fire Marshal's Office contractor, costs for the work are added to the owner's property tax assessment.

The County's contractor will complete abatement work during the month of June. Staff will return to the Council on July 27, 2005 to present a list of property assessments. The assessments must be submitted to the County Assessor's Office prior to August 10, 2005.

**FISCAL IMPACT:** The Hazardous Vegetation Management Program is user fee supported. The per-lot assessment includes the actual costs for controlling vegetation plus the overhead cost to manage the program.

**2005 BRUSH PROGRAM  
Commencement Report  
City of Morgan Hill**

Situs		APN		CITY/STATE			
18825	GLEN AYRE DR	764-43-006	William W. & Lori M. Robson	18825 Glen Ayre Drive	Morgan Hill	CA	95037
18580	MURPHY	764-27-027	Russell & Noreen Bergin	18580 Murphy Springs Ct	Morgan Hill	CA	95037-3063
1566	LLAGAS RD	773-19-033	Robert J. Margevicius	1566 Llagas Road	Morgan Hill	CA	95037-9456



## **CITY COUNCIL/REDEVELOPMENT**

**AGENCY MEETING DATE:** *June 1, 2005*

### **PROPERTY BASED IMPROVEMENT DISTRICT (PBID)**

**Agenda Item #12**

**Approved By:**

**BAHS Director**

**Submitted By:**

**Executive Director**

**RECOMMENDED ACTION(S):** 1) Consider a petition from the Morgan Hill Downtown Association (MHDA) to initiate special assessment proceedings to form a PBID in downtown and, if there are adequate signatures, adopt the resolution of intent to initiate special assessment proceedings; and 2) if the petition lacks adequate signatures consider the following options: a) Request the MHDA to collect more signatures for the petition and return to the City Council for consideration when a base threshold has been met or b) Direct the City Manager/Executive Director to sign the petition in favor of the assessment and adopt the resolution of intent to initiate the special assessment proceedings should the 50% threshold be met.

**EXECUTIVE SUMMARY:** Last year, the Agency provided funding to the MHDA to retain a firm to assist in forming a PBID in downtown. The proposed Downtown Morgan Hill PBID is designed to benefit properties in the downtown area. The PBID would fund economic development, administrative and marketing services to the properties within the PBID district. In addition, the properties that front along Monterey Rd between Main St. and Dunne Ave. would receive special maintenance services. The duration of the PBID is five (5) years and has an estimated initial annual assessment budget of \$197,000 with provisions for annual increases up to 5% per year (see the attached management district plan and engineer's report). Assessments are calculated based on lot square footage, building square footage, frontage along Monterey Rd, and location in the premium or standard zone.

The MHDA has been working diligently over the past several months to complete the required petition phase. In order for the City Council to initiate the special assessment proceedings, it must first receive petitions signed by property owners in the proposed district who will pay more than 50% of the proposed assessments. The City and Agency assessments represent about 21.5% or \$42,000 of the total assessment. Currently, MHDA has received petitions approving 23.4% (\$46,000) of the total assessment. MHDA intends to report at the meeting if this percentage has increased since the publication of this agenda. As it stands, even if the City/Agency signed the petition in support of the PBID, the petition would not meet the 50% threshold for moving forward with the PBID.

As a policy issue, staff requested that the MHDA obtain approval representing at least 50% of the remaining assessments not including the City/Agency assessment (i.e., 40% of the total assessment). Our intent was to show that a majority of the assessed property owners support the PBID. The City/Agency vote would merely "put the petition over the top." Under this scenario, with the City/Agency's vote, the approved petition would represent over 60% of the total assessment. However, the City/Agency may determine that obtaining 50% of the remaining assessments is too high or too low a percentage threshold and require a higher or lower percentage from the MHDA. The City/Agency can request MHDA to collect more petitions before the City/Agency will vote its approval even if the MHDA should report at the meeting that it has received 28.5% of the proposed assessments so that if the City/Agency voted in support of the PBID, it would meet the PBID threshold.

Should the City/Agency wish to move ahead and authorize its petition approval to meet the 50% requirement, then the next step would be to adopt the resolution and set the public hearing for the PBID.

**FISCAL IMPACT:** None at this time, but the final approval of the PBID would require the City/Agency to pay over \$42,000 in annual property assessments for five years.

## **RESOLUTION NO.**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL DECLARING ITS INTENTION TO FORM THE DOWNTOWN MORGAN HILL BUSINESS IMPROVEMENT DISTRICT AND TO LEVY AND COLLECT ASSESSMENTS WITHIN SUCH DISTRICT PURSUANT TO THE PROPERTY AND BUSINESS IMPROVEMENT DISTRICT LAW OF 1994, PART 7 OF DIVISION 18 OF THE CALIFORNIA STREETS AND HIGHWAYS CODE, AND ARTICLE XIID OF THE CALIFORNIA CONSTITUTION AND APPOINTING A TIME AND PLACE FOR HEARING OBJECTIONS THERETO**

#### **RECITALS:**

**WHEREAS**, the Property and Business Improvement District Law of 1994, Part 7 of Division 18 of the California Streets and Highways Code, commencing with Section 36600, (the “Law”) authorizes cities to establish property and business improvement districts within business districts to promote the economic revitalization and physical maintenance of such business districts; and

**WHEREAS**, the Law authorizes cities to levy and collect assessments on real property within such districts for the purpose of providing services and activities that specially benefit real property within such districts; and

**WHEREAS**, Article XIID of the California Constitution and Section 53753 of the California Government Code impose certain procedural and substantive requirements relating to the levy of new or increased assessments; and

**WHEREAS**, a written petition meeting the requirements of Section 36621 of the Law (the “Petition”) has been submitted to the City Clerk by property owners within the City’s central business district requesting the Morgan Hill City Council (the “City Council”) to initiate proceedings pursuant to the Law to establish a property and business improvement district to be named the “Downtown Morgan Hill Business Improvement District”; and

**WHEREAS**, such Petition was signed by property owners in the proposed district who will pay more than fifty percent (50%) of the assessments proposed to be levied as determined in accordance with Section 36621 of the Law; and

**WHEREAS**, prior to the circulation of the Petition, a management district plan was prepared in accordance with the requirements of Section 36622 of the Law and the Petition included a summary of the management district plan; and

**WHEREAS**, subsequent to the circulation of the Petition, certain modifications were required to be made to the management district plan, which modifications result in a decrease in certain costs of the proposed services and activities and no change in the amounts of the proposed assessments; and

**WHEREAS**, a modified management district plan entitled “Final Modified Downtown Morgan Hill Business Improvement District Management District Plan” dated May 2005, (the “Management District Plan”) has been prepared and submitted to the City Clerk, containing all of the information required by Section 36622 of the Law, including a description of the boundaries of the proposed district, the boundaries of each benefit zone therein, the activities and services proposed for the district, and the cost of such services and activities; and

**WHEREAS**, an engineer’s report entitled “Downtown Morgan Hill Business Improvement District Final Engineer’s Report” has been prepared and submitted to the City Clerk, containing all of the information required by Article XIIIID of the California Constitution;

**NOW, THEREFORE**, the City Council of the City of Morgan Hill does hereby find, determine, resolve and order as follows:

Section 1. Pursuant to Section 36621 of the Law, the City Council declares its intention to form a property and business improvement district to be designated the “Downtown Morgan Hill Business Improvement District” (the “District”) and two benefit zones therein to be designated the “Premium Zone” and the “Standard Zone” and to levy and collect assessments against lots and parcels of real property within the District for five years, commencing with fiscal year 2005-06.

Section 2. The City Council hereby preliminarily approves the Management District Plan and the Engineer’s Report, as filed.

Section 3. The City Clerk shall make the Management District Plan, the Engineer’s Report and other documents related to the proposed District available for public inspection in the office of the City Clerk during normal business hours.

Section 4. NOTICE IS HEREBY GIVEN that the City Council shall conduct a public hearing on the establishment of the District, the establishment of the two benefit zones therein and the levy and collection of assessments against the lots and parcels of real property within the District Office of the City Clerk on July 27, 2005 at 7:00p.m. or as soon thereafter as the matter may be heard, in the Morgan Hill Council Chambers, City Hall, 17555 Peak Avenue, Morgan Hill, California. At the public hearing, the City Council will consider all objections or protests, if any, to the proposed establishment of the District, the establishment of the two benefit zones therein and the proposed assessment. Any interested person may present written or oral testimony at the public hearing.

Section 5. The exterior boundaries of the proposed District include an approximately 21-block area around the Monterey Road commercial corridor bounded by Central Avenue on the north, Hale Avenue and Del Monte Avenue on the west, Bisceglia Avenue on the south, and Butterfield Boulevard on the east. The Premium Zone includes all parcels between Main Avenue, Del Monte Avenue, Dunne Avenue and the railroad tracks. The Standard Zone includes all other parcels outside of the Premium Zone, but inside the boundaries of the proposed District. A map of the proposed District and the two benefit zones therein is on file in the office of the City Clerk and available for public inspection.



Section 6. The proposed services and activities for the District include the following:

(i) economic development and marketing activities designed to convey a positive business image and attract new jobs and investment, including activities aimed at retaining and attracting new and vibrant businesses and creating a downtown identity in an effort to enhance the overall business environment in the core commercial area of downtown Morgan Hill, and (ii) maintenance on Monterey Road between Main Avenue and Dunne Avenue, including services to power wash sidewalks, sidewalk sweeping, trash and graffiti removal, median landscape maintenance, flowerbed maintenance and special events clean up in an effort to provide a clean environment.

Section 7. The total assessment proposed to be levied and collected for fiscal year 2005-06 is \$197,200. The assessments to be levied and collected for subsequent years, up to a total of four additional years, may be increased between zero and five percent per year.

Section 8. The City Clerk, or her designee, is hereby authorized and directed to mail notices of the public hearing and assessment ballots as provided in Section 53753 of the Government Code and Article XIID of the California Constitution.

Section 9. Reference is hereby made to the Management District Plan and the Engineer's Report for a full and detailed description of the proposed activities and services, the boundaries of the proposed District, the benefit zones therein, and the proposed assessments.

Section 10. If the District is established, assessments will be levied on real property within the District for five years, commencing with fiscal year 2005-06.

Section 11. No bonds will be issued on behalf of the proposed District.

Section 12. The City Council hereby approves the Procedures for the Completion, Return and Tabulation of Assessment Ballots presented to the City Council at this meeting and on file in the office of the City Clerk and available for public inspection.

**PASSED AND ADOPTED** by the City Council of Morgan Hill at a Regular Meeting held on the 1<sup>st</sup> Day of June, 2005 by the following vote.

<b>AYES:</b>	<b>COUNCIL MEMBERS:</b>
<b>NOES:</b>	<b>COUNCIL MEMBERS:</b>
<b>ABSTAIN:</b>	<b>COUNCIL MEMBERS:</b>
<b>ABSENT:</b>	<b>COUNCIL MEMBERS:</b>

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
**Irma Torrez, City Clerk**

\_\_\_\_\_  
**Dennis Kennedy, Mayor**

**🏛 CERTIFICATION 🏛**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA,** do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on June 1, 2005.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

**DATE:** \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**

## **EXHIBIT "A"** **PROCEDURES**

### **CITY OF MORGAN HILL** **DOWNTOWN MORGAN HILL BUSINESS IMPROVEMENT DISTRICT**

#### **PROCEDURES FOR THE COMPLETION, RETURN, AND TABULATION OF ASSESSMENT BALLOTS**

##### **I. Completion of Assessment Ballots**

- **Who may complete an assessment ballot**

An assessment ballot may be completed by the owner of the parcel to be assessed. As used in these Procedures, the term "owner" includes the owner's authorized representative. If the owner of the parcel is a partnership, joint tenancy, or tenancy in common, an assessment ballot may be completed by any of the general partners, joint tenants, or tenants in common. Except as set forth below, only one assessment ballot may be completed for each parcel.

- **Proportional assessment ballots**

If a parcel has multiple owners, any owner may request a proportional assessment ballot. If the ownership interest of the owner is not shown on the last equalized secured property tax assessment roll, such request must include evidence, satisfactory to the City, of the owner's proportional rights in the parcel. The City will provide the proportional assessment ballot to the owner at the address shown on the assessment roll. Any request for an assessment ballot to be mailed to another location must be made in writing and must include evidence, satisfactory to the City, of the identity of the person requesting the assessment ballot. Each proportional assessment ballot will be marked to show the date on which the ballot was provided, to

identify it as a proportional ballot and to indicate the owner's proportional rights in the parcel. The City will keep a record of each proportional assessment ballot provided to an owner.

- **Duplicate ballots**

If an assessment ballot is lost, withdrawn, destroyed or never received, the City will mail or otherwise provide a duplicate ballot to the owner upon receipt of a request in writing delivered to the City Clerk. The duplicate assessment ballot will be marked to show the date on which the assessment ballot was mailed or provided and to identify it as a duplicate assessment ballot or a duplicate proportional assessment ballot. The same procedure applies to duplicate assessment ballots or duplicate proportional assessment ballots which are lost, withdrawn, destroyed, or never received.

- **Marking and signing the assessment ballot**

To complete an assessment ballot, the owner of the parcel must (1) stamp or mark the appropriate box supporting or opposing the proposed assessment, and (2) sign, under penalty of perjury, the statement on the ballot that the person completing the assessment ballot is the owner of the parcel or the owner's authorized representative. Only one box may be stamped or marked on each ballot. Assessment ballots must be completed in ink.

- **Only assessment ballots provided by the City will be accepted**

The City will only accept assessment ballots mailed or otherwise provided to owners by the City.

## **II. Return of Ballots**

- **Who may return assessment ballots**

An assessment ballot may be returned by the owner of the parcel or by anyone authorized by the owner to return the assessment ballot.

- **Where to return assessment ballots**

Assessment ballots may be mailed to the address indicated on the assessment ballot in the envelope provided by the City.

Ballots may also be delivered in person to the City Clerk at City Hall, 17555 Peak Avenue, Morgan Hill, California 95037 (prior to 4:30 p.m. on the date scheduled for the public hearing on the proposed assessment), or delivered to the City Clerk at the public hearing on the proposed assessment.

- **When to return ballots**

All returned ballots must be received by the City Clerk prior to the time the City Council closes the public input portion of the public hearing on the proposed assessment. The public input portion of the public hearing may be continued from time to time. The City Clerk will endorse on each assessment ballot the date of its receipt.

The City Clerk will pick up mailed assessment ballots at 4:30 p.m. on the date scheduled for the public hearing on the proposed assessment. To ensure that mailed assessment ballots are received by the City Clerk prior to the conclusion of the public input portion of the public hearing, mailed assessment ballots must be received by the City prior to that time. Mailed assessment ballots received after 4:30 p.m. on the date scheduled for the public hearing will only be

counted if the assessment ballots are received by the City Clerk prior to the conclusion of the public input portion of the public hearing. The City makes no representation as to whether the public input portion of the public hearing will be concluded on the date scheduled for commencement of the public hearing or continued to a later date.

- **Withdrawal of assessment ballots**

After returning an assessment ballot to the City, the person who signed the ballot may withdraw the ballot by submitting a written statement to the City Clerk directing the City Clerk to withdraw the ballot. Such statement must be received by the City Clerk prior to the close of the public input portion of the public hearing on the proposed assessment. When assessment ballots are tabulated, the City Clerk will segregate withdrawn ballots from all other returned ballots. The City Clerk will retain all withdrawn ballots and will indicate on the face of such withdrawn ballots that they have been withdrawn.

If any ballot has been withdrawn, the person withdrawing the ballot may request a duplicate ballot.

- **Changes to assessment ballots**

In order to change the contents of an assessment ballot that has been submitted, the person who has signed that ballot may (1) request that such ballot be withdrawn, (2) request that a duplicate ballot be issued, and (3) return the duplicate ballot fully completed. Each of these steps must be completed according to the procedures set forth above.

## **III. Tabulation of Assessment Ballots**

- **Which assessment ballots will be counted**

Only assessment ballots which are completed and returned in compliance with these procedures will be counted. Assessment ballots received by the City Clerk after the close of the public input portion of the public hearing on the proposed assessment will not be counted. Assessment ballots which are not signed by the owner will not be counted. Assessment ballots with no boxes marked, or with more than one box marked, will not be counted. Assessment ballots withdrawn in accordance with these procedures will not be counted.

The City will keep a record of each proportional or duplicate assessment ballot mailed or otherwise provided to an owner and will verify, prior to counting any duplicate ballot, that only one ballot has been returned for the parcel (or for the owner in the case of proportional ballots). If a non-duplicate ballot has been returned, the City will count the non-duplicate ballot and disregard all duplicate ballots. If only duplicate assessment ballots have been returned, the City will count the earliest provided duplicate ballot and disregard the later provided duplicate ballots. If an owner returns both a non-proportional ballot and a proportional ballot, the City will count the proportional ballot and disregard the non-proportional ballot.

- **When and where assessment ballots will be tabulated**

The tabulation of assessment ballots will be performed, in view of those present, at the public hearing following the close of the public input portion of the public hearing. The public hearing may be continued from time to time for the purpose of tabulating ballots. Ballots will not be unsealed until the tabulation begins.

- **How assessment ballots will be tabulated**

Assessment ballots may be counted by hand, by computer or by any other tabulating device.

Assessment ballots will be tabulated by adding the ballots submitted in opposition to the assessment and adding the ballots submitted in favor of the assessment. Assessment ballots shall be weighted according to the proportional financial obligation of the affected property; provided, however, that proportional ballots shall be weighted in accordance with the respective ownership interests of each proportional ballot submitted. If one or more proportional ballots are returned for a parcel and a non-proportional ballot is returned for the parcel, the non-proportional ballot will either be disregarded (if the same owner has returned a proportional ballot) or treated as a proportional ballot (if the same owner has not returned a proportional ballot).

- **Who will tabulate assessment ballots**

Assessment ballots will be tabulated by the City Clerk or some other impartial person designated by the City Council who does not have a vested interest in the outcome of the proposed assessment. The City Clerk or other designated person may be assisted by any of the staff and consultants of the City.

- **Results of tabulation**

The results of the tabulation will be announced following the completion of the tabulation and entered in the minutes of the City Council meeting. If assessment ballots submitted in opposition to the proposed assessment exceed the assessment ballots submitted in favor of the proposed assessment (as tabulated above), the assessment will not be imposed.

## **Disclosure of Ballots**

During and after the tabulation, the assessment ballots shall be treated as disclosable public records and be equally available for inspection by the proponents and opponents of the proposed assessment.

## **IV. Resolution of Disputes**

In the event of a dispute regarding whether the signer of an assessment ballot is the owner of the parcel to which the ballot applies, the City will make such determination from the last equalized assessment roll and any evidence of ownership submitted to the City prior to the conclusion of the public hearing. The City will be under no duty to obtain or consider any other evidence as to ownership of property and its determination of ownership will be final and conclusive.

In the event of a dispute regarding whether the signer of an assessment ballot is an authorized representative of the owner of the parcel, the City may rely on the statement on the ballot signed under penalty of perjury that the person completing the ballot is the owner's authorized representative and any evidence submitted to the City prior to the conclusion of the public hearing. The City will be under no duty to obtain or consider any other evidence as to whether the signer of the ballot is an authorized representative of the owner and its determination will be final and conclusive.

## **V. Public Record**

During and after tabulation, all ballots are public records.

## **VI. Further Information**

For further information, contact Irma Torrez, City Clerk at (408) 779-725



## **CITY COUNCIL STAFF REPORT**

**MEETING DATE:** *June 1, 2005*

### **ADDITIONAL TIME EXTENSION REQUEST FOR SUBDIVISION IMPROVEMENT AGREEMENT FOR ALCINI PARTNERSHIP/MAST AVENUE**

#### **RECOMMENDED ACTION(S):**

That Council either:

- 1) Require the Public Improvements to be completed by September 1, 2005 as required by the most recent extension of the Subdivision Improvement Agreement, or
- 2) Grant the developer's request to extend the time, with the condition that the extension granted by Council on September 1, 2004 must be fully executed and complied with no later than July 1, 2005.

**EXECUTIVE SUMMARY:** In February of 2001 the Alcini Partnership entered into a Subdivision Improvement Agreement to divide their property on Mast Avenue into two parcels. The Alcini's later sold the 2.9 acre undeveloped portion and retained the developed 2.5 acre parcel (see location map). A requirement of the Subdivision Improvement Agreement was that full public improvements be constructed along the frontages of both parcels within 18 months. The City Manager granted extensions for completion of the Subdivision Improvement Agreements as allowed by our Code through January of 2003, and the Alcini's subsequently requested Council extend the agreement two additional times. The Council granted an extension through March 14, 2004 and in September of 2004, granted an additional one year extension until September of 2005.

The Alcini's as yet have not executed the last Subdivision Improvement Agreement extension nor submitted the required insurance, however the bonds guaranteeing the improvements are still in effect. The Alcini's instead sent the attached February 28, 2005 letter to the City Manager stating that it was not their understanding that the improvements fronting both parcels must be completed by September of 2005; instead stating that they believed they had no obligation to install the improvements until the vacant lot developed, and then their understanding was that they would be required to install the public improvements fronting the developed parcel and the new property owner would be responsible for the public improvements fronting the vacant parcel.

Staff does not agree with the developer's position. The staff report noting the Council's actions on September 1, 2004 is attached and staff believes it was clear with that action that the obligation of the Alcini's is to build public improvements fronting both the developed and undeveloped parcel by September 1, 2005.

**FISCAL IMPACT:** None to City at this time, except staff time.

**Agenda Item # 13**

**Prepared By:**

**Public Works Director**

**Submitted By:**

**City Manager**



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: June 1, 2005***

### **JOINT CITY COUNCIL AND PLANNING COMMISSION WORKSHOP**

#### **RECOMMENDED ACTION(S):**

Direct Staff to schedule a joint workshop with the Planning Commission on June 6, 2005.

#### **EXECUTIVE SUMMARY:**

The Planning Commission is requesting a joint workshop with the City Council to discuss a number of planning topics. The Commission would like to receive comment from the Council on proposed changes to the Residential Development Control System (Measure C) evaluation criteria. A subcommittee of the Commission is completing changes to the evaluation criteria in preparation for the upcoming Downtown Area competition. Commissioners would like an opportunity to discuss and explain the proposed amendments with the City Council. Also, a related topic to the scoring changes is whether Downtown Area projects should be required to provide affordable BMR units.

In addition to Measure C scoring changes, the Commission would like to discuss other topics related to the Downtown including:

- Increasing the allowable density throughout the downtown
- Creating a vision for the downtown, including defining a critical mass for retail
- Expansion of the Downtown Area south of Dunne Avenue.

The changes to the Measure C scoring criteria need to be adopted soon to allow prospective downtown project applicants time to prepare their Measure C applications with the new criteria. The Commission therefore is requesting that the joint workshop be scheduled at the earliest opportunity. The Commission advised staff that they would be available to meet as early as Monday, June 6, 2005.

#### **FISCAL IMPACT:**

No budget adjustment required.

**Agenda Item # 14**

**Prepared By:**

**Planning Manager**

**Approved By:**

**Community  
Development Director**

**Submitted By:**

**City Manager**